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Attorney for Petitioner
ADRIAN RISKIN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

ADRIAN RISKIN,

Petitioner,

vs.

HISTORIC CORE BUSINESS
IMPROVEMENT DISTRICT PROPERTY
OWNERS ASSOCIATION,

Respondent.

Case No. BS174718

(Dept. 85, Hon. James C. Chalfant, presiding)

**PETITIONER'S NOTICE OF MOTION
AND MOTION FOR AWARD OF
ATTORNEY'S FEES AND COSTS;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
COLLEEN FLYNN**

Date: May 12, 2020
Time: 1:30 p.m.
Dept: 85

TO RESPONDENT AND ITS ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on May 12, 2020, at 1:30 p.m., or as soon thereafter as
counsel may be heard, in Department 85 of the above-entitled Court, located at 111 N. Hill
Street, Los Angeles, California, Petitioner will move the Court for an order compelling
Respondent Historic Core Business Improvement District Property Owners Association to pay
Petitioner's attorney's fees and costs incurred in the prosecution of this action. The amount
requested is \$77,182.00 in fees and \$1,099.25 in costs.

1 This motion shall be pursuant to Cal. Gov't Code §§ 6258 and 6259(d), and shall be based on
2 the accompanying points and authorities, Declaration of Colleen Flynn, the records and files of
3 this lawsuit, and whatever other matter may be presented at the time the motion is heard.

4 Dated: March 1, 2020

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7 **LAW OFFICE OF COLLEEN FLYNN**
8 Attorney for Petitioner

9 By /s/ Colleen Flynn
10 Colleen Flynn
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **1. Case Background and Relief Requested.**

3 This California Public Records Act (“CPRA”) lawsuit arises from five records requests
4 by Adrian Riskin (“Petitioner”) to the Historic Core Business Improvement District Property
5 Owners Association (“Respondent”) seeking emails Respondent exchanged with the City of Los
6 Angeles, its Business Improvement District (“BID”) renewal consultant, other Downtown BIDs,
7 developers and businesses, as well as StreetPlus, a company that provides security and related
8 services.
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10 Petitioner has succeeded at every stage of this litigation:

- 11
- 12 • Immediately after answering,¹ Respondent withdrew all previously claimed exemptions.
13 (Briggs 11/7/18 email, Exhibit 1 to Flynn Decl. to Petitioner’s Brief in Support of
14 Petition for Order Compelling Disclosure (“P’s Br.”);
 - 15 • At the Court-ordered meet and confer on December 21, 2018, Respondent agreed to
16 produce *electronic, native format, and unredacted* versions of the emails that it had
17 previously provided to Petitioner only in hard copy, with redactions, in response to his
18 1/24/17 request. (Briggs 12/27/18 email, Exhibit 2 to Flynn Decl. to P’s Br.);
 - 19 • On December 31, 2018, in accordance with the parties’ December 21, 2018 agreement,
20 Respondent produced 1,418 unredacted, electronic records to Petitioner in native format.
21 (Riskin Decl. to P’s Brief, ¶ 19);
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27 ¹ Petitioner filed this action on August 13, 2018 and Respondent belatedly answered on
28 November 5, 2018.

- 1 • The December 31, 2018 production also included files, not previously produced in any
2 format, responsive to Petitioner’s 2/22/2017 request for Street Plus emails. (Riskin Decl.
3 to P’s Brief, ¶ 19);
- 4 • On July 10, 2019, the Court issued an order, pursuant to the parties’ joint stipulation,
5 requiring Respondent to produce all responsive documents to any future requests by
6 Petitioner within 30 days unless Respondent shows an extraordinary hardship. This order
7 resolved Petitioner’s second cause of action;
- 8 • On November 5, 2019, the Court granted in part Petitioner’s Petition for Order
9 Compelling Disclosure Pursuant to Public Records Act and ordered Respondent to 1)
10 conduct a new search for the January 27, 2017 request by searching the emails remaining
11 in Ms. Beston’s email account to ensure that no records were missing; 2) produce the 11
12 printed emails in native electronic format or else explain why they cannot be found; and
13 3) conduct a new search and produce mailchimp records (*i.e.*, list of recipients and copy
14 of email messages sent to those recipients) responsive to Petitioner’s CPRA requests,
15 other than the January 27, 2017 request;
- 16 • On December 9, 2019, the Court entered Judgment for Petitioner;
- 17 • On January 9, 2020, the Clerk executed the Writ of Mandate for Petitioner; and,
- 18 • On February 10, 2020, Respondent produced the mailchimp files as ordered. (Flynn Decl.
19 ¶ 2).

24 2. **Petitioner is Entitled to a Mandatory Award of Attorney Fees.**

25 The CPRA, Cal. Gov’t. Code § 6259(d) states the “court *shall* award court costs and
26 reasonable attorney fees to plaintiff should the plaintiff prevail in litigation filed pursuant to this
27 section.” (emphasis added). Under the CPRA, an award of attorney’s fees to a prevailing plaintiff
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1 is mandatory. *Fontana Police Dept. v. Villegas-Banuelos* (1999) 74 Cal.App.4th 1249, 1252. “A
2 plaintiff prevails within the meaning of the [CPRA] ‘when he or she files an action which results
3 in defendant releasing a copy of a previously withheld document.’” *Los Angeles Times v.*
4 *Alameda Corridor Transp. Authority* (2001) 88 Cal.App.4th 1381, 1391, citing *Belth v.*
5 *Garamendi* (1991) 232 Cal.App.3d 896, 898.

7 Petitioner is entitled to a mandatory award: Petitioner’s lawsuit was the catalyst for the
8 voluntary release of requested records and resulted in judicial orders for 1) future timely
9 production of requested records and 2) disclosure of additional requested records. *Beth v.*
10 *Garamendi* (1991) 232 Cal.App.3d at 901-02 (Petitioner entitled to an award of attorney fees and
11 costs where lawsuit resulted in an order of disclosure of public records).

13 **3. Amount of Fees and Costs Sought.**

14 The determination of what constitutes a reasonable fee begins with the ‘lodestar,’ amount
15 i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate. *Bernardi*
16 *v. County of Monterey* (2008) 167 Cal.App.4th 1379, 1393. Throughout the litigation
17 Respondent often took unreasonable positions² and refused to engage in any meaningful
18 negotiation, forcing Petitioner to litigate the matter all the way to successful resolution via a
19 judicial order on the merits of Petitioner’s claims.

21 Petitioner also sought to resolve the matter of fees informally with Respondent. On December
22 23, 2019, counsel for Petitioner emailed counsel for Respondent, making an offer to resolve fees
23 and inviting a counter-offer. Flynn Decl. ¶3. To date, respondent has not substantively responded
24 to Petitioner’s offer of settlement. Flynn Decl. ¶3.

26 ² *E.g.*, Respondent sent emails responsive to Petitioner’s CPRA requests to the City
27 from its mailchimp account yet took the bizarre position that even though it utilizes mailchimp to
28 send out its newsletters via email it doesn’t consider those emails to be emails, and claimed it
doesn’t have access to those emails. Opp. At 5:23-24; Besten Dec. ¶ 18; Besten Depo. Pg. 84-85,
Exhibit 5 to Flynn Decl. to P’s Br.

The requested fees are as follows:

Attorney	Hours Spent	Hours Anticipated for Reply & Hearing	Hourly Rate	Total (hrs x rate)
Colleen Flynn	99.3	5	\$740	\$77,182.00

Counsel's contemporaneously recorded time records and costs are attached hereto as **Exhibit A** to Flynn Decl. Evidence establishing the reasonableness of the requested hourly rate is attached hereto in the declaration of counsel and **Exhibits B** to **G** to Flynn Decl.

The requested costs are \$1099.25. Flynn Decl. ¶4.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests the Court issue an Order directing Respondent to pay Petitioner his fees in the amount of \$77,182.00 and \$1099.25 in costs.

DATED: March 1, 2020

Respectfully submitted,

LAW OFFICE OF COLLEEN FLYNN
Attorney for Petitioner

/s/ Colleen Flynn
COLLEEN FLYNN

DECLARATION OF COLLEEN FLYNN

I, COLLEEN FLYNN, declare:

1. I am an attorney representing Petitioner, Adrian Riskin, in this matter. Except where expressly noted, I have personal knowledge of the following facts, and if called as a witness, could and would competently testify to their truth. I make this declaration in support of Petitioner's Notice of Motion and Motion for Award of Attorney's Fees and Costs.

2. On February 10, 2020, Respondent's attorney Jeff Briggs emailed me the mailchimp files which the Court had ordered disclosed. I then forwarded them to my client, Mr. Riskin.

3. On December 23, 2019, I emailed Mr. Briggs with an offer to resolve fees and costs and inviting a counter-offer. I followed up by email on February 10, 2020 before beginning work on this motion. To date, Respondent has not substantively responded to Petitioner's offer of settlement.

4. The costs in this matter are: \$541.25 (filing fees); \$522.00 (transcript for Blair Besten Deposition); \$35 (messenger services); and \$1 (postage), for a total of \$1099.25.

Qualifications/Experience

5. I received a Juris Doctor Degree from Southwestern University School of Law in 2004. I have been admitted to practice law in the State of California since 2004. I was admitted to practice in the Northern District of California in 2004, the Central District of California in 2006, and the 9th Circuit in 2013.

6. I attended and graduated *Cum Laude* from Southwestern, where I was also a member of Law Review. While in law school I served as a judicial extern for Judge Harry Pregerson of the Ninth Circuit Court of Appeals. I also externed for Judge Juan Carlos Maqueda of the Corte Suprema de Justicia de la Nación de Argentina (Supreme Court of Argentina).

1 7. Upon graduating from law school, from September 2004 to July 2005, I worked in
2 San Francisco at the Law Office of Dennis Cunningham, which specializes in police misconduct
3 matters.

4 8. From September 2005 through May 2007 I was employed by the Law Office of
5 Robert Mann and Donald W. Cook, where I worked mainly on federal civil rights class action
6 cases involving jail conditions and police issues.

7 9. In May 2007 I began a sole practice in Los Angeles where I continue to co-counsel on
8 such cases. I also handle criminal cases, mainly for political activists.

9 10. From June 2009 to March 2010, along with my sole practice, I maintained a part-time
10 position as a detention attorney with Catholic Charities, working with detainees impacted by the
11 intersection of immigration and criminal laws.

12 11. From September 2015 to May 2016, along with my sole practice, I maintained the
13 part-time position of Interim Executive Director of the National Lawyers Guild, Los Angeles
14 Chapter.

15 12. I have participated in a significant amount of federal and state court litigation,
16 including open government laws such as the California Public Records Act (“CPRA”) and
17 federal Freedom of Information Act (“FOIA”). I am currently co-counsel on FOIA suit *Poulsen*
18 *v. United States Dep’t of Defense, Office of the Director of National Intelligence, and*
19 *Department of Justice*, Case No. CV 17-3531 (WHO) (N.D. Cal.); No. 19-16430 (9th Cir.)
20 (FOIA action for records related to the electronic surveillance of Donald Trump’s associates
21 during the 2016 election campaign; first time the government has *ever* released Foreign
22 Intelligence Surveillance Court warrant applications and orders pursuant to a FOIA request). I
23 was lead counsel on FOIA suit, *Marguerite Hiken and the Military Law Task Force v. Dep’t of*
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1 *Defense and United States Central Command*, (“*Hiken v. DOD*”), 836 F.3d 1037 (9th Cir. 2016)
2 (reversing District Court’s below-market fee award); 521 F.Supp.2d 1047 (N.D. Cal. 2007)
3 (Agency’s *Vaughn* Index was inadequate; *in camera* review of documents warranted, resulted in
4 the release of thousands of pages of documents).

5 13. I have previously represented Mr. Riskin in one CPRA case, *Riskin v. Hollywood*
6 *Media District Property Owners Assn.* Case No. BS 166075 (Judge Strobel). Judge Strobel
7 granted in part Mr. Riskin’s CPRA Petition and awarded \$30,000 in attorney’s fees in 2018.

9 14. I was also lead counsel on CPRA cases *Stop LAPD Spying and NLG-LA v. City of Los*
10 *Angeles*, Case No. BS 159673 (Judge Chalfant) (2017 settlement; City released requested
11 documents regarding LAPD’s Suspicious Activity Reporting program) and *Stop LAPD Spying v.*
12 *City of Los Angeles*, Case No. BS 172216 (Judge Strobel) (2019 settlement; City released
13 requested documents regarding LAPD’s Operation LASER, a predictive policing program;
14 contents of the records shed light on the program’s constitutional problems and led to the
15 Department’s shuttering of Operation LASER).

17 15. I am currently co-counsel on *Amador, et al. v County of Los Angeles*, CV 10-1649
18 SVW (RCx) (C.D. Cal.) (class-action challenging unlawful strip searches of females detainees in
19 the Los Angeles County Jails; motion for final approval of class action settlement pending);
20 *Chua et al. v. City of Los Angeles, et al.*, CV 16-0237 JAK (GJSx) (C.D. Cal.) (class-action
21 against Los Angeles Police Department for civil rights violations; motion for final approval of
22 class action settlement pending); and *Martinez v. GEO Group*, Case No. 5:18-cv-01125 SP (C.D.
23 Cal.) (multi-plaintiff civil rights lawsuit on behalf of former detainees at the Adelanto ICE
24 detention facility). I have also co-counseled on *Aichele et al. v. City of Los Angeles et al.*, CV 12-
25 10863 DMG (FFMx) (C.D. Cal.) (class-action against Los Angeles Police Department for civil
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1 rights violations; settled for approximately \$2.6 million); *Craft v. County of San Bernadino*, Case
2 No. EDCV 05-0359 (SGL) (C.D. Cal.) (class-action challenging unlawful strip searches in the
3 SB County Jails; settled for approximately \$26 million); *Multi-Ethnic Immigrant Workers*
4 *Network v. City of Los Angeles*, CV 07-3072 AHM (FMMx) (“MIWON”) (C.D. Cal.) (class
5 action against the Los Angeles Police Department for attack on immigrant rights rally; settled for
6 approximately \$12 million); and *Camarillo, et al. v. City of Maywood et al.*, CV 07-3469 ODW
7 (SHx) (multi-party suit against City of Maywood for systemic police brutality, corruption and
8 misconduct; led to the dissolution of the police department). I was also lead counsel in a federal
9 False Claims Act case, *United States of America and State of California ex rel., Shelby Eidson v.*
10 *Aurora Las Encinas Hospital et al.*, Case No. CV 10-1031 JAK (RZx) (C.D. Cal.) (health care
11 whistleblower client; settled in 2014 for confidential amount).

14 16. Aside from paid work, I have contributed numerous pro bono hours through my work
15 with the National Lawyers Guild representing protestors arrested for civil disobedience and have
16 assisted low-income individuals with matters for which they cannot afford representation.

18 ***Time Spent***

19 17. I have maintained contemporaneous time records using computer program Excel,
20 describing with particularity the amount of time devoted to each task. Attached as **Exhibit A** is a
21 true and correct copy of my detailed time-sheet accurately reflecting the 99.3 hours I spent on
22 this lawsuit, to the best of my ability, which I recorded contemporaneously. These hours are not
23 inclusive of all the hours I have worked on this case, as there were numerous times that I failed
24 to record my hours. Those hours have not been reconstructed – and are not listed in the totals
25 here. I also anticipate spending at least 5 hours on the reply and at the hearing on the fee motion.

27 18. On behalf of Petitioner, I request the Court award an hourly rate of \$740 for my time
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1 in this matter. I base this amount on the opinions of attorneys Carol Sobel and Richard Pearle
2 who have filed fee declarations for me this year in *Amador, et al. v County of Los Angeles*, CV
3 10-1649 SVW (RCx). **Exhibit B** is a true and correct of Ms. Sobel's declaration and **Exhibit C**
4 is a true and correct copy of Mr. Pearle's declaration. Ms. Sobel and Mr. Pearle are experts in
5 issues related to court-awarded attorney fees and are familiar with hourly rates awarded to
6 attorneys whose experience is comparable to mine. Ms. Sobel has known me for the last 15 years
7 and is personally familiar with my level of skill and experience. **Exhibit B**, ¶60.

9 19. I also base the requested hourly rate on fee awards to other attorneys of my similar
10 skill and experience. In 2017, Mr. Tiomkin, a 2007 admittee, was awarded \$650 per hour in
11 *Webb v. Ackerman*, Case No. CV 13-9112 (PLA) (C.D. Cal.) (Dkt. No. 180), attached hereto as
12 **Exhibit D**. In 2017, Matthew Strugar, a 2004 admittee, was awarded \$675 per hour in
13 *Manning's Beef LLC et al. v. Los Angeles Cow Save*, Case No. BC 651650, attached hereto as
14 **Exhibit E**. Although the order does not name him, I often co-counsel with Mr. Strugar and have
15 personal knowledge that this is his fee award. In 2018, Mr. Nguyen, a 2008 admittee, was
16 awarded \$675 per hour in *Pinter-Brown v. UCLA, et al.*, Case No. BC 624838, attached hereto as
17 **Exhibit F**. In 2019, in *Hadsell v. City of Baldwin Park*, Mr. Nguyen was awarded \$800 per hour,
18 attached hereto as **Exhibit G**.

21 20. In 2019 in *Chua*, the plaintiffs filed a motion for approval of attorney fees in which
22 they requested a rate of \$725 an hour for me. In 2018, Judge Strobel awarded me fees at a rate of
23 \$600 per hour in *Riskin v. Hollywood Media District Property Owners Assn.* Case No. BS
24 166075. In 2016, I was awarded fees at a rate of \$590 per hour in FOIA case *Hiken v. DOD*,
25 Case No. 13-17073. In 2015, I was awarded fees at a rate of \$400 per hour for work done
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1 between 2007 and 2010 in *Camarillo v. City of Maywood*, CV 07-3469 ODW (SHx). In 2009, I
2 was awarded fees at the rate of \$350 per hour in the *MIWON* matter.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed March 1, 2020, at Los Angeles, California.

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6 /s/ Colleen Flynn
7 COLLEEN FLYNN
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Time Sheet - Colleen Flynn - Adrian Riskin v. Historic Core BID PRA

DATE	NAME	ACTION	DESCRIPTION	TIME	
6/10/2018	Flynn	tel call w/ Adrian Riskin	Re: PRA petition re 5 requests to Historic Core BID	0.2	Attorney
6/15/2018	Flynn	review docs; draft memo	Re: PRA petition re 5 requests to Historic Core BID	1.2	Attorney
7/10/2018	Flynn	draft doc; review docs	PRA petition; review correspondence b/w Riskin & Besten	3.5	Attorney
7/10/2018	Flynn	tel call w/ Adrian Riskin	Re: facts, chronology, questions re petition	0.5	Attorney
7/11/2018	Flynn	review docs; draft memo	Re: outline for petition	1.6	Attorney
7/12/2018	Flynn	mtg w/ Adrian Riskin	Re: review facts, emails, public interest, etc for petition	1.7	Attorney
8/6/2018	Flynn	draft doc; review docs	re: PRA petition; review correspondence & docs b/w Riskin, Besten & Briggs	2.8	Attorney
8/9/2018	Flynn	draft doc; review docs	re: PRA petition; review correspondence & docs b/w Riskin, Besten & Briggs	3.3	Attorney
8/9/2018	Flynn	tel call w/ Adrian Riskin	Re: reviewing petition, signing verification	0.2	Attorney
8/10/2018	Flynn	mtg w/ Adrian Riskin	Re: review & sign verification; review petition; answer client questions	0.4	Attorney
8/31/2018	Flynn	review doc; draft doc	Notice of trial setting conf	0.1	Attorney
9/11/2018	Flynn	review Jeff Briggs email; reply; cont'd exchange			
9/11/2018	Flynn	exchange	Re: setting up call to discuss case	0.1	Attorney
9/11/2018	Flynn	tel call w/ Jeff Briggs	Re: Jeff's request for extension to answer; insurance co issues, offer to try to narrow issues, discussion of exemptions, etc.	0.2	Attorney
9/11/2018	Flynn	email to Adrian Riskin	Re: tel call w/ Briggs & request for extension	0.1	Attorney
9/11/2018	Flynn	tel call w/ Adrian Riskin	Re: Briggs request for extension & discussion of exemptions, etc.	0.1	Attorney
9/11/2018	Flynn	email exchange w/ Jeff	Re: Jeff's request for extension to answer	0.1	Attorney
10/17/2018	Flynn	review Jeff Briggs email; reply	Re: request for additional week to respond to petition	0.1	Attorney
10/17/2018	Flynn	email exchange w/ Jeff Briggs; email client	Re: request for additional week to respond to petition; update re review of requested docs	0.1	Attorney
10/24/2018	Flynn	review Jeff Briggs email; call Briggs	Re: email requesting I call him/ he asked to call me back	0.1	Attorney

10/24/2018	Flynn	tel call w/ Briggs	Re: his review of withheld emails; exemptions, issues w/ his client; his proposal re serving filing answer late	0.2	Attorney
10/24/2018	Flynn	email Adrian Riskin	Re: updates fr Jeff Briggs re HCBID answering the complaint & attny review of withheld records	0.1	Attorney
10/24/2018	Flynn	review Jeff Briggs email; reply; email Adrian Riskin	Re: request for extension to respond to petition; his review of withheld records; Nov 20 trial setting conf	0.1	Attorney
11/2/2018	Flynn	review Jeff Briggs email	Re: he recv'd signed verification; will be filing answer by mail	0.1	Attorney
11/8/2018	Flynn	review Jeff Briggs email; review docs; email exchange w/ Briggs; email exchange w/ Riskin	Re: Jeff's 11/7/18 email re updates on exemptions & doc review; review petition & answer; email w/ Jeff re updates; email w/ Riskin re updates	1.3	Attorney
11/9/2018	Flynn	email Anna Von Hermon	Re: respondent claims exemptions but then says didn't actually withhold docs	0.1	Attorney
11/13/2018	Flynn	email exchange w/ Jeff Briggs	Re: Briggs 11/7 email saying he would let me know early this week if he was producing additional docs	0.1	Attorney
11/20/2018	Flynn	prep for court court appearance; pre-court mtg w/ client; post-court mtg w/ Briggs; post-court meeting w/ client	Re: trial setting conf; review Briggs recent emails	0.1	Attorney
11/20/2018	Flynn	msg exchange w/ Riskin	Re: trial setting conf; mtg w/ both parties	1.7	Attorney
11/20/2018	Flynn	email to Jeff Briggs draft doc; mgs exchange w/ Riskin;	Re: setting depo	0.1	Attorney
11/20/2018	Flynn	email Jeff Briggs	Re: setting up meet & confer, search methodology	0.1	Attorney
11/20/2018	Flynn	email to Jeff Briggs	Re: depo notice for Blair Besten	0.2	Attorney
11/21/2018	Flynn	attend HCBID board meeting; msg to Adrian review Jeff Briggs email; call Briggs;	Re: Respondent's "decision makers" for court-ordered meet & confer	0.1	Attorney
11/28/2018	Flynn	email Adrian	Re: 2019 budget - over \$2mill; up 20% w/ BID renewal	1	Attorney
12/12/2018	Flynn	email exchange w/ Adrian; email Briggs	Re: scheduling meet & confer	0.2	Attorney
12/12/2018	Flynn		Re: scheduling meet & confer & client goals	0.2	Attorney

12/13/2018	Flynn	review Jeff Briggs email; email Riskin	Re: time & location of meet & confer (Jeff refused my request to meet at the BID)	0.1	Attorney
12/20/2018	Flynn	mtg w/ Adrian Riskin	Re: prep for meet & confer; review petition & Briggs emails	0.9	Attorney
12/21/2018	Flynn	prep for meet & confer	Review emails w/ Jeff Briggs & petition	0.5	Attorney
12/21/2018	Flynn	mtg w/ Briggs & Blair Besten @ Briggs' ofc review notes & A Riskin email; draft email to Jeff Briggs;	Meet & confer Re: providing previously exempt docs in elect format; new searches, agreement re future PRA response protocol	1.1	Attorney
12/23/2018	Flynn	send to Adrian Riskin review A Riskin email; edit email & send to Briggs	Confirming info from HCBID and agreements @ meet & confer	0.2	Attorney
12/23/2018	Flynn		Re: confirming email re meet & confer	0.1	Attorney
12/28/2018	Flynn	review Briggs email; email A Riskin review Briggs email & A Riskin emails; reply to Riskin	Re: confirming email re meet & confer - Briggs additions - email to Riskin & about discovery	0.1	Attorney
1/2/2019	Flynn		Re: docs just produced by Briggs to Riskin	0.1	Attorney
1/3/2019	Flynn	tel call w/ A Riskin	Re: response to Briggs production; still sooo inadequate	0.2	Attorney
1/3/2019	Flynn	analyze docs; draft email to Briggs review Briggs email;	Re: review HCBID's 12/31/18 production & identify all deficiencies; draft email to Briggs	0.5	Attorney
1/4/2019	Flynn	email A Riskin draft docs; email	Re: HCBID response to 1/3/19 email re cont'd deficiencies	0.1	Attorney
1/7/2019	Flynn	exchange w/ A Riskin	Requests for production & rogs Review emails w/ Jeff Briggs & pettion; finalize rogs	2.2	Attorney
1/8/2019	Flynn	prepare for court	Con't trial setting conf; post-court conf w/ Briggs re depo dates & discovery	0.5	Attorney
1/8/2019	Flynn	court appearance	Re: update re court; discuss ways to resovle case	2	Attorney
1/8/2018	Flynn	tel call w/ Adrian Riskin draft proposal; email A Riskin	re: resolving case; follow-up from court	0.2	Attorney
1/8/2019	Flynn			0.2	Attorney
1/9/2019	Flynn	finalize doc; email Briggs	Re: follow-up from court; cont'ing depo date; proposal to resolve case	0.1	Attorney
1/17/2019	Flynn	tel msg & email to Briggs	Re: plz respond to 1/9 email re rescheduling depo & my settlement offer	0.1	Attorney
1/30/2019	Flynn	review Briggs email	Re: rescheduling Besten depo	0.1	Attorney

1/31/2019	Flynn	review Briggs email; msg exchange w/ A Riskin; email Briggs	Re: rescheduling Besten depo	0.2	Attorney
1/31/2019	Flynn	email exchange w/ Brggs; email Adrian	Re: Riskin's 1/9 settlement offer	0.1	1/31/2001
1/31/2019	Flynn	review doc; email Adrian	Re: HCBID/StreetPlus contract - esp section re daily/weekly reports req'd	0.1	Attorney
2/1/2019	Flynn	review Briggs email; reply	Re: responding to Petitioner's discovery - request for word versions	0.1	Attorney
			Re: HCBID request for extension; request we pick up redacted docs from his office; coordinate w/ Adrian time to review discovery responses, prep for depo & pick up docs	0.2	Attorney
2/6/2019	Flynn	review Brrigs email; tel call to Adrian; reply to Briggs	Re: moving depo date; picking up docs	0.1	Attorney
2/6/2019	Flynn	email exchange w/ Briggs & Adrian	Re: HCBID rog responses, R4P responses, prep for Besten depo	2.6	Attorney
2/14/2019	Flynn	review docs; mtg w/ Adrian R	Re: R4P, Set 2	0.1	Attorney
2/15/2019	Flynn	draft doc; email Briggs	Re: Spenser v. Lunada Bay Boys		
2/19/2019	Flynn	review doc; tel msg to Meridian Discovery; email Adrian	Order to release phone for extraction; call re poss sup of additional searches	0.2	Attorney
		tel call from A Gungor, Meridian Discovery; email to A Gungor; email Adrian	Re: requesting court order their company to supervise searches; info for conflict check etc	0.2	Attorney
2/19/2019	Flynn		Re: no response to Petitioner's settlement offer	0.1	Attorney
2/19/2019	Flynn	tel msg to Jeff Briggs	Re: review petition, answer, notes from meetings & calls w/ Briggs	1.6	Attorney
2/19/2019	Flynn	prep for Besten depo			
2/20/2019	Flynn	review Nancy email & tel msg; reply	Re: depo tomorrow	0.1	Attorney
2/20/2019	Flynn	prep for depo	Re: draft outline for depo; review docs including discovery responses	2.8	Attorney
2/21/2019	Flynn	prep for depo; client mtg	Re: review discovery responses, petition, answer; review questions w/ Adrian	1.8	Attorney
2/21/2019	Flynn	deposition	Blain Besten	2.1	Attorney
2/21/2019	Flynn	mtg w/ Adrian Riskin	Re: depo follow-up	0.2	Attorney
2/21/2019	Flynn	email Briggs	Re: MailChimp search	0.1	Attorney
3/5/2019	Flynn	prep for court	Re: cont'd trial setting conf; review notes & emails w/ Briggs	0.4	Attorney
3/5/2019	Flynn	court; post court mtg w/ Briggs; post court mtg w/ Adrian	Re: cont'd trial setting; mtg re responding to settlement offer, stip to briefing sched, next steps	1.6	Attorney

3/5/2019 Flynn	emails to Briggs & Adrian	Re: briefing schedule, settlement offer	0.1	Attorney
3/13/2019 Flynn	email to Briggs	Re: no response to my 3/5 post-court email??	0.1	Attorney
3/19/2019 Flynn	review Briggs email & document	HCBID response to R4P, Set 2	0.1	Attorney
3/20/2019 Flynn	review Briggs email	Re: briefing schedule, Mailchimp	0.1	Attorney
3/29/2019 Flynn	tel msg & email to Briggs	Re: briefing schedule, Mailchimp	0.1	Attorney
4/1/2019 Flynn	review Briggs email; reply	Re: briefing schedule	0.1	Attorney
7/4/2019 Flynn	review docs; outline doc	Review petition, answer, written discovery, depo trx, communications b/w Briggs & AR; communications b/w Briggs and CF; communications b/w AR & CF; outline trial brief	2.6	Attorney
7/4/2019 Flynn	review docs; outline doc	Review petition, answer, written discovery, depo trx, communications b/w Briggs & AR; communications b/w Briggs and CF; communications b/w AR & CF; outline trial brief	1.2	Attorney
7/5/2019 Flynn	draft docs; email exchange w/ A Riskin; email Jeff Briggs; tel msg to Jeff Briggs	Re: Joint Stip & Proposed Order re Petition c/a #2 agreement re future responses/productions Opening Brief/Trial Brief; facts/ case background, relief requested, summary of PRA requests, research legal standard; outline arguments	0.7	Attorney
7/5/2019 Flynn	draft doc; research	Public Interest in Disclosure/records are public records; Respondent claimed no exemption	2.9	Attorney
7/5/2019 Flynn	draft doc; research	Waiver re emails/addresses; meet & confer/previously redacted records; failure to search & produce; standard re adequate search; failure to do adequate search	2.5	Attorney
7/6/2019 Flynn	draft doc; research	Waiver re emails/addresses; meet & confer/previously redacted records; failure to search & produce; standard re adequate search; failure to do adequate search	1.4	Attorney
7/6/2019 Flynn	draft doc; research; email exchange w/ Adrian Riskin	Waiver re emails/addresses; meet & confer/previously redacted records; failure to search & produce; standard re adequate search; failure to do adequate search	2.6	Attorney

7/7/2019 Flynn	review docs; draft doc; tel call w/ Adrian Riskin	Re: failure to search Mailchimp; review depo trx & emails; section re stip re c/a 2; searches must be supervised	1.8	Attorney
7/8/2019 Flynn	review docs; draft docs; tel call & email exchange w/ AR	Draft declarations, review docs for Exhibits	1.4	Attorney
7/8/2019 Flynn	review/revise draft doc; tel call and email exchange w/ AR	finalize brief/decs/exhibits for filing	1.2	Attorney
7/8/2019 Flynn	review/revise draft doc; email exchange w/ AR	finalize brief/decs/exhibits for filing	2.5	Attorney
8/8/2019 Flynn	review doc	HCBID's Opp Brief & Exhibits	0.5	Attorney
8/8/2019 Flynn	review Briggs email; reply; further exchange	Re: complying with Court's rules re trial notebook & exhibits	0.1	Attorney
8/8/2019 Flynn	email exchange w/ AR	Re: HCBID's opp & scheduling call re Petitioner's reply brief	0.1	Attorney
8/12/2019 Flynn	tel call from Briggs	Re: lodging trial notebook	0.1	Attorney
8/12/2019 Flynn	prep for mtg w/ AR; mtg w/ AR	Review petition, answer, brief, & opp; mtg re gmail search issues, MailChimp, attacks on AR/intent of PRA requests, 1st Am	1.4	Attorney
8/12/2019 Flynn	meail to and exchange msgs w/ Kath Rogers	Re: how to access sent emails in MailChimp; decl	0.2	Attorney
8/13/2019 Flynn	exchange emails w/ NLG-LA staff & ED; draft doc	Re: dec re retrieving recipient list and emails sent through MailChimp	0.3	Attorney
8/16/2019 Flynn	draft doc	Begin outlining reply brief/arguments/facts	1.8	Attorney
8/19/2019 Flynn	draft doc	Draft reply brief - intro, search issues, extraction issues, MailChimp issues	1.5	Attorney
8/19/2019 Flynn	draft doc	Draft reply brief - intro, search issues, extraction issues, MailChimp issues	2.2	Attorney
8/21/2019 Flynn	draft doc	Draft reply brief - rebut claims against AR, draft dec, exhibits	1.5	Attorney
8/22/2019 Flynn	draft doc	Finalize brief/decs/exhibits for filing; tel call & email exchange w/ AR	2.5	Attorney
8/26/2019 Flynn	review msg from Dept 85 clerk, call Jeff Briggs	Re: msg that J. Chalfant needs to change hearing date from 9/3 to 9/5; Jeff will be at funeral in Minnesota 9/5	0.1	Attorney
8/26/2019 Flynn	tel call to clerk	New date - Sept 17th	0.1	Attorney

		Sept 17th works for Jeff; when I called clerk back that date no longer good for the court - shell call back w/ new date		
8/26/2019	Flynn	tel call to Jeff; tel call to clerk	0.1	Attorney
8/26/2019	Flynn	tel call fr clerk; email Jeff & AR	0.1	Attorney
11/2/2019	Flynn	prepare for hearing	1.3	Attorney
11/3/2019	Flynn	prepare for hearing	1.5	Attorney
11/4/2019	Flynn	review doc; update doc	0.6	Attorney
11/4/2019	Flynn	tel call w/ AR prep for court; review docs; prepare arguments	0.2	Attorney
11/5/2019	Flynn	court appearance; pre-court mtg w/ client; post-court mtg w/ Briggs; post-court meeting w/ client; travel	0.4	Attorney
11/5/2019	Flynn	travel	1.9	Attorney
11/7/2019	Flynn	draft doc; call Briggs	0.2	Attorney
11/7/2019	Flynn	email Briggs; email AR	0.1	Attorney
11/7/2019	Flynn	finalize doc; email Briggs; file; check filing fee	0.1	Attorney
11/12/2019	Flynn	review Briggs email; reply	0.1	Attorney
11/14/2019	Flynn	email Briggs	0.1	Attorney
11/14/2019	Flynn	call from Briggs	0.1	Attorney
11/16/2019	Flynn	review Briggs email; email A Riskin	0.1	Attorney
11/18/2019	Flynn	review A Riskin email; draft email to Briggs, email qusetions to AR	0.1	Attorney
11/18/2019	Flynn	review A Riskin email; email Briggs	0.1	Attorney
11/18/2019	Flynn	review Briggs email; reply	0.1	Attorney

11/21/2019 Flynn	tel call fr Brigg	Re: discuss resolving mailchimp search; writ; settlement	0.2	Attorney
11/21/2019 Flynn	draft doc; email AR	Re: call w/ Briggs, Briggs proposal for producing mailchimp files	0.1	Attorney
11/22/2019 Flynn	review Briggs email; reply	Brigg's update re writ/mailchimp	0.1	Attorney
11/22/2019 Flynn	review doc	Re: Fee award in Riskin v Larchmont	0.1	Attorney
11/25/2019 Flynn	review doc; draft doc; email Briggs	Re: review terms of order re writ & judgment; draft proposed writ & judgment; email Briggs re form & time to meet & confer re objections	0.2	Attorney
12/4/2019 Flynn	review Briggs email; reply	Re: Briggs' suggested edits to proposed writ/judgment	0.1	Attorney
12/5/2019 Flynn	edit doc; email Briggs	Re: update writ/judgment w/ Briggs' proposed edits; email Briggs re changes & new doc & re next steps	0.1	Attorney
12/5/2019 Flynn	review Briggs email; edit doc; reply	Re: Briggs' additional proposed edits	0.1	Attorney
12/8/2019 Flynn	draft docs; email Briggs	Re: finalize proposed judgment, review court order, draft dec re objections, email Briggs	0.3	Attorney
12/8/2019 Flynn	review Briggs email; reply; tel msg to Briggs	Re: Briggs email asking me to give him until Monday - unclear if he has further objections to judgment?	0.1	Attorney
12/9/2019 Flynn	Briggs	Re: writ & judgment; OSC on 12/17	0.1	Attorney
12/10/2019 Flynn	vm from clerk; email Briggs	Re: OSC off calendar; file motion or negotiate fees?	0.1	Attorney
12/11/2019 Flynn	review Briggs email; reply	Re: writ & judgment, negotiating fees	0.1	Attorney
12/10/2019 Flynn	talk to clerk	Re: judgment, writ & \$25 fee	0.1	Attorney
12/19/2019 Flynn	draft docs	Re: writ & stip re attny fee mtn	0.5	Attorney
12/19/2019 Flynn	email Briggs	Re: writ & stip re attny fee mtn	0.1	Attorney
12/23/2019 Flynn	review Briggs email; finalize doc; email Briggs; file	Re: stip to extend date to file attny fee mtn	0.2	Attorney
12/23/2019 Flynn	draft ltr; calculate fees			
1/9/2020 Flynn	& costs; email Briggs	Re: demand to resolve fees & costs	0.2	Attorney
	tel call to Dept 85	Re: status of writ	0.1	Attorney
1/10/2020 Flynn	clerk's office	Re: status of writ - they mailed it yesterday	0.2	Attorney
1/12/2020 Flynn	review doc; email Jeff	Re: writ of mandate & order on stip re attny fee motion deadlines	0.1	Attorney

2/10/2020	Flynn	review Jeff Briggs email; forward to Adrian, exchange w/ Adrian	Re: compliance w/ court order on PRA petition	0.2	Attorney
2/10/2020	Flynn	email to Jeff Briggs	Re: compliance w/ court order on PRA petition & resolving fees/costs	0.1	Attorney
2/12/2020	Flynn	tel msg to Jeff Briggs	Re: resolving fees/costs - haven't gotten a response from him	0.1	Attorney
2/13/2020	Flynn	review Briggs email; reply	Re: P's offer to resolve fees sent in Dec 2019	0.1	Attorney
2/20/2020	Flynn	tel msg & email to Briggs	Re: D's failure to respond to P's 12/23/2019 offer to resolve fees	0.1	Attorney
2/20/2020	Flynn	review Jeff Briggs email; reply	Re: D still has no counter to resolve fees	0.1	Attorney
2/28/2020	Flynn	research	Re: standard for fees - catalyst theory & judicial order, lodestar factors	1.6	Attorney
2/29/2020	Flynn	draft docs	Re: fee motion & fee dec	2	Attorney
3/1/2020	Flynn	research; draft docs; review docs	Re: fee motion, fee dec, supporting cases fee orders	3.4	Attorney
3/1/2020	Flynn	draft docs	Re: fee motion & fee dec	1.3	Attorney

TOTAL HOURS = 99.3

COSTS

8/13/2018	\$435.00	Filing fee for petition
8/18/2018	\$35.00	Messenger - serve petition on HCBID
3/20/2019	\$522.00	Depo Trx - Blair Besten
7/8/2019	\$6.75	Filing Fee for Trial Brief
7/8/2019	\$27.30	Filing Fee - Joint Stip re Timetable for Future Responses
8/22/2019	\$6.75	Filing Fee - Reply Brief
11/7/2019	\$6.75	Filing Fee - Notice of Ruling
12/8/2019	\$6.75	Filing Fee - Writ & Dec
12/19/2019	\$25	Filing Fee for Writ of Mandate
12/19/2019	\$1	postage for writ & filing fee
12/23/2019	\$27	Filing Fee - Stip Re Attny Fee Mtn

Total Costs

= **\$1,099.25**

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9 Attorneys for Plaintiffs
10 (Other counsel not listed)

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 MARY AMADOR, *et al.*,

14 Plaintiffs,

15 vs.

16 COUNTY OF LOS ANGELES, *et al.*,

17 Defendants.

Case No. CV 10-01649 SVW (JEMx)

[Honorable Stephen V. Wilson]

**DECLARATION OF CAROL A.
SOBEL IN SUPPORT OF MOTION
FOR ATTORNEYS' FEES**

18 Date: July 20, 2020
19 Time: 1:30 p.m.
20 Crtm: 10A

DECLARATION OF CAROL A. SOBEL

I, CAROL A. SOBEL, declare:

1. I am an attorney admitted to practice before the Supreme Court of California and the United States District Court for the Central District of California. I make this declaration from facts of which I have personal knowledge and, if called to testify to those facts, could and would do so competently.

2. I graduated from law school and was admitted to practice in 1978. Following 20 years with the ACLU Foundation of Southern California, I entered private practice in April of 1997. My practice primarily involves complex civil rights litigation, focusing on the rights of homeless persons, First Amendment rights and police practices. Exhibit "1" is my resumé.

3. I have received many awards for my legal work over the years. In 2008, I was named a California Lawyer of the Year (CLAY) recipient for civil rights by California Lawyer Magazine. That same year, I was also named as one of the Top 75 Women Litigators in California by the Daily Journal Corporation. In 2007, I received an Angel Award from California Lawyer Magazine for pro bono work and was also named by the Daily Journal as one of the Top 100 Most Influential Lawyers in California. In 2013 and again in 2014, I was named one of the top 50 women lawyers in Los Angeles. I am named as a Superlawyer in the area of First Amendment or civil rights litigation consistently for more than a decade. Additional recognition of my legal work is set out in my attached resumé.

4. For the six years prior to 1997, I held the position of Senior Staff Counsel in the legal department of the ACLU Foundation of Southern California. During that time period, I was responsible for preparing many of the fee motions in cases where the ACLU represented the prevailing party. Because the ACLU does not bill clients on an hourly basis for its services, I was

1 required to obtain information to establish reasonable market rates for the
2 ACLU lawyers. It was my practice to obtain current billing rates for lawyers
3 of comparable skill and experience at several firms throughout the City. I did
4 this on an annual basis, contacting partners who were familiar with the ACLU
5 lawyers in question so that they could make an informed judgment about the
6 comparable skill levels of the attorneys at their firms whose rates were used to
7 establish ACLU billing rates. At the time that I consulted these individuals, I
8 was aware that the partners had been personally involved in pro bono litigation
9 with the ACLU and worked directly with the ACLU lawyers for whom I sought
10 to establish market billing rates, so they were able to assess the skill and
11 experience of the ACLU lawyers.

12 5. Since entering private practice, I have continued to survey firms each
13 year to obtain relevant comparisons for billing rates. I generally begin this process
14 the first time in each year I prepare a fee motion, or enter into settlement
15 discussions regarding fees. As part of my survey, I make it a point to obtain
16 information concerning rates for attorneys in both larger law firms engaged in
17 complex litigation, as well as smaller boutique civil rights law firms.

18 6. To obtain information concerning market rates charged by attorneys
19 in the Los Angeles area, I also review attorney fee applications and awards in other
20 cases than my own. Specifically, I regularly review fee applications submitted by,
21 and awards to, private attorneys practicing the range of civil rights law, as well as
22 court awards made to the ACLU, Disability Rights Legal Center ("DRLC"), Asian
23 Americans Advancing Justice, the Western Center on Law and Poverty ("WCLP"),
24 MALDEF and other public interest groups in Los Angeles. I do this to determine
25 what is being sought and approved as market rates for lawyers from these firms.
26 Because many of the cases brought by public interest groups are co-counseled by
27 attorneys at private commercial firms, I have access to those billing rates as well.

28 7. In addition to these two methods, when I become aware of a case

1 where statutory fees are sought, I regularly obtain fee applications and any
2 resulting awards from on-line public records for the courts, as well as from legal
3 research databases such as LEXIS and Westlaw. Included in my review of fee
4 applications and awards are those by, and awards to, large firms engaged in
5 complex litigation to assess customary billing rates for these firms. Many of these
6 commercial firms also serve as pro bono counsel on occasion. I estimate that I
7 review around 100 or more fee motions, supporting declarations and fee awards
8 annually and have done so for more than 30 years.

9 8. To obtain information concerning market rates charged by attorneys
10 in the Los Angeles area, I also review attorney fee applications and awards in other
11 cases than my own. Specifically, I regularly review fee applications submitted by,
12 and awards to, private attorneys practicing the range of civil rights law, as well as
13 court awards made to the ACLU, Disability Rights Legal Center ("DRLC"), Asian
14 Americans Advancing Justice, the Western Center on Law and Poverty ("WCLP"),
15 MALDEF and other public interest groups in Los Angeles. I do this to determine
16 what is being sought and approved as market rates for lawyers from these firms.
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18 attorneys at private commercial firms, I have access to those billing rates as well.
19 In addition to these two methods, when I become aware of a case where statutory
20 fees are sought, I regularly obtain fee applications and any resulting awards from
21 on-line public records for the courts, as well as from legal research databases such
22 as LEXIS and Westlaw. Included in my review of fee applications and awards are
23 those by, and awards to, large firms engaged in complex litigation to assess
24 customary billing rates for these firms. Many of these commercial firms also serve
25 as pro bono counsel on occasion. I estimate that I review around 100 or more fee
26 motions, supporting declarations and fee awards annually for more than 30 years.

27 9. My declarations in support of fee applications for civil rights and
28 public interest attorneys have been cited repeatedly by courts as evidence of

1 reasonable market rates in Los Angeles. For example, in *Nadarajah v. Holder*, 569
2 F.3d 906, 912-914 (9th Cir. 2009), the Ninth Circuit referenced my declaration
3 with approval in support of the application of attorneys from the ACLU for fees
4 under the Equal Access to Justice Act (“EAJA”). In *Torrance Unified School*
5 *District v. Magee*, 2008 U.S. Dist. LEXIS 95074 (CD CA 2008), granting fees
6 pursuant to the IDEA statute, 20 U.S.C. §1415(i)(3)(c), the Court cited to my
7 declaration as persuasive evidence of market rates. In *Atkins v. Miller*, CV 01-
8 01574 DDP (CD CA 2007), Judge Pregerson awarded fees to a 1975 graduate at
9 \$675 an hour, specifically citing to my declaration and that of Barry Litt to support
10 the requested rates. *Id.* at pp. 8-9 and n.4. Additional cases in which my
11 declarations have been cited favorably include, among others, *Charlebois v. Angels*
12 *Baseball LP*, SACV 10-0853 DOC (May 30, 2012); *Orantes-Hernandez v. Holder*,
13 713 F.Supp.2d 29,963-964(C.D.Cal.2010); *Hiken v. DOD*, 2013 U.S. Dist.
14 LEXIS 118165 (N.D. Cal. Jan. 14, 2013), *Hiken v. DOD*, 836 F.3d 1037 (9th
15 Cir. 2016); *Vasquez v. Rackauckas*, 2011 U.S. Dist. LEXIS 83696 (C.D. Cal.
16 2011); *Rauda v. City of Los Angeles*, 2010 U.S. Dist. LEXIS 138837 (C.D.
17 Cal. 2010); *Jochimsen v. County of Los Angeles*, *supra*; *Dugan v. County of*
18 *Los Angeles*, cv-11-08145 CAS (C.D. Cal. March 3, 2014); *Flores v. City of*
19 *Westminster*, SA-CV-11-0278 DOC (C.D. Cal. Oct. 23, 2014); *Xue Lu v. United*
20 *States*, 2014 U.S. Dist. LEXIS 77789 (C.D. Cal. May 23, 2014); *Wagafe v. Trump*,
21 Case 2:17-cv-00094-RAJ [Doc. 223] (W.D. WA 02/27/19); *Webb v. Officer J.*
22 *Ackerman*, 13-cv-01992 PLA (C.D. Cal. January 4, 2018) [Doc. 180, p.5]; and
23 *Carrillo v. Schneider Logistics*, awarding fees in Circuit Case No. 12-55042 (9th
24 Cir. Apr. 2014), following the affirmance of a preliminary injunction (*See* 501 Fed.
25 Appx. 713, 2012 U.S. App. LEXIS 26601 (9th Cir. Dec. 28, 2012). The Ninth
26 Circuit recently cited to my declaration in approving EAJA rates for the ACLU and
27 other immigration attorneys in *Gomez-Sanchez v. Barr*, *sub nom Gomez-Sanchez v.*
28 *Sessions*, 892 F.3d 985 (9th Cir. 2018). In *Jochimsen*, a unanimous court held

1 that I was qualified as an expert on reasonable market rates.

2 10. In addition, I litigated statutory fee issues at the appellate level in
3 several of my cases. Most notably, I was lead counsel before the California
4 Supreme Court in *Tipton-Whittingham v. City of Los Angeles*, 34 Cal.4th 604
5 (2004), the companion case to *Graham v. Daimler-Chrysler*, 34 Cal.4th 533
6 (2004), establishing the continued vitality of the “catalyst” fee doctrine in
7 California courts and upholding an award of fees of almost \$2 million in a
8 multi-plaintiff sexual discrimination/harassment lawsuit on behalf of female
9 employees of the Los Angeles Police Department. I was also counsel in *Jones*
10 *v. City of Los Angeles*, 555 Fed. Appx. 659 (2014), establishing entitlement to
11 fees as a “prevailing party” based on the Circuit Court’s necessary approval of
12 a settlement that was conditioned on vacatur of the panel decision.

13 11. I provide training on attorney fees best practices for civil rights
14 and public interest firms, including the Legal Aid Foundation of Los Angeles
15 and the ACLU Foundation of Southern California. I also do CLE
16 presentations on attorney fees for a number of organizations, including the
17 National Lawyers Guild and the National Police Accountability Project.

18 12. I have considerable experience reviewing and analyzing billing
19 records in my own cases and in cases for which I provide a supporting
20 declaration on the reasonableness of rates or hours. Many of the cases in
21 which I am counsel involve multiple attorneys and law offices. In those
22 instances, I am the attorney who conducts a review of all of the fee records and
23 exercises billing judgment to eliminate any improperly billed time. This
24 includes, among other issues, eliminating clerical tasks, unnecessarily
25 duplicative items, improperly billed items and vague items. For example, in
26 the *Tipton-Whittingham* case cited above, it was my responsibility to review
27 the fee records covering six years of hours for attorneys from three firms: the
28 ACLU, the Western Regional Office of the NAACP Legal Defense Fund, and

1 Litt & Estuar. The unadorned lodestar in *Tipton* was approximately
2 \$1,900,000. I performed similar services in other cases where multiple
3 counsel are involved.

4 13. In *Multi-Ethnic Immigrant Worker Network v. City of Los Angeles*,
5 involving a police assault on a lawful demonstration in MacArthur Park on May
6 Day, 2007, I performed a billing judgment on the fee records for all attorneys and
7 support staff in the case. Because the case was a hybrid class action, with both
8 300 individual plaintiffs and a residual class of several thousand persons, the legal
9 team was sizable. The fee approved in the case was \$3,713,000.

10 14. Because I am a sole practitioner, I assess a reasonable market rate by
11 comparison to lawyers of comparable skill and experience at other firms in the Los
12 Angeles area, as I did during the time that I was employed by the ACLU. When I
13 was at the ACLU, I prepared numerous fee motions under federal and state fee-
14 shifting statutes for cases in which the ACLU represented the prevailing party. I
15 was responsible for preparing these motions both for cases where I was directly
16 involved in the underlying litigation, as well as in cases brought by other staff
17 attorneys and volunteer counsel for the ACLU. As part of this assignment, each
18 year I would survey several law firms to obtain information on their current billing
19 rates to establish rates for individuals of comparable experience to ACLU staff. I
20 chose firms where the partners were familiar with the experience levels of the
21 various ACLU attorneys and had co-counseled cases with the ACLU. I have
22 continued a similar practice with fee motions in those cases where I serve as
23 ACLU cooperating counsel and in my own practice when fees may be recovered.

24 15. Since entering private practice, to keep current with market rates, I
25 review billing rates at firms the first time in each year I prepare a fee motion or
26 enter into settlement discussions regarding fees. I make it a point to obtain rate
27

1 information for attorneys in both larger law firms engaged in similarly complex
2 federal litigation, as well as smaller boutique civil rights law firms and public
3 interest organizations. I regularly review fee motions submitted by, and awards
4 made to, the ACLU Foundation of Southern California, the Mexican America
5 Legal Defense and Educational Fund (“MALDEF”), the Western Center on Law
6 and Poverty, Public Counsel, the Disability Rights Legal Center, Disability Rights
7 Advocates and other public interest groups to determine what is being sought and
8 awarded as market rates. Although I frequently file declarations in support of fee
9 applications filed by these non-profit groups, I am usually not the only declarant.

10
11 16. In all the fee declarations that I prepare, I apply my understanding of
12 the U.S. Supreme Court decision in *Blum v. Stenson*, 465 U.S. 886 (1984), that
13 “rates charged in private representations may afford relevant comparisons.” *Id.* at
14 895 fn. 11. I understand this to mean that fees for civil rights lawyers should
15 approximate the rates charged by attorneys of comparable skill, experience and
16 reputation in the relevant legal market, who are engaged in similarly complex
17 litigation, regardless of whether the attorneys work for a non-profit, represent
18 individuals on contingency, serve as in-house counsel, or charge a minimal rate
19 with the possibility of receiving a market rate award if successful. *See, Nadarajah*
20 *v Holder*, 569 F3d at 910.

21 17. To support my opinion here, I attach fee awards and supporting
22 declarations in civil rights cases in the Los Angeles legal market. Each is a true
23 and correct copy of the document available in the Court’s files, with the state
24 Superior Court’s stamp or the federal ECF header. Several are now several years
25 old. These older exhibits illustrate the reasonableness of the rates but do not
26 reflect current rates. In *Hiken v. DOD*, the court noted that “market rates in effect
27 more than two years *before* the work was performed” are not current lodestar
28

1 rates. 802 F.3d at 1107 (9th Cir. 2016) (emphasis in original). If I rely on
 2 decisions more than two years old, I compute a current rate by using a 3.1 percent
 3 increase, which is the average of the legal services component increase in the
 4 Consumer Price Index for Los Angeles for the past several years. The data is
 5 available at <http://www.bis.gov/news.release/cpi.102.htm> (Table 2. Consumer Price
 6 Index for All Urban Consumers (CPI-U): U.S. city average, by detailed
 7 expenditure category).

8
 9 18. I apply several additional principles to establish reasonable market
 10 rates. First, when available, I look to rates awarded to the attorney in previous
 11 cases because I understand that such awards are strong evidence of reasonable
 12 market rates. I look to rates awarded to the attorney in previous cases based on my
 13 understanding that such awards are strong evidence of reasonable rates. See
 14 *Chaudhry v. City of Los Angeles*, 751 F.3d 1096, 1111 (9th Cir. 2014); *U.S. v.*
 15 *\$28,000 in U.S. Currency*, 802 F.3d 1100, 1106 (9th Cir. 2015); *Camacho v.*
 16 *Bridgeport Fin., Inc.*, 523 F.3d 973, 976 (9th Cir. 2008).

17 19. Next, I look to billing rates by attorneys engaged in similarly complex
 18 litigation as an approved method of setting market rates for civil rights attorneys
 19 who do not bill clients on an hourly basis. See *Blum*, 465 U.S. at 895. This
 20 approach recognizes that most civil rights attorneys, including at non-profits, take
 21 cases on a contingency basis. I look broadly at awards establishing reasonable
 22 hourly rates in a variety of civil rights cases based on my understanding that the
 23 market rate comparison “extends to all attorneys in the relevant community
 24 engaged in equally complex Federal litigation, no matter the subject matter.”
 25 *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010) (internal
 26 quotation omitted).

27 20. When the specific rate evidence identified in the preceding paragraph
 28

1 is available, I do not rely on surveys because they do not meet the standards for the
2 lodestar analysis. In my experience, fee surveys report market rates in sweeping
3 categories with no identification of the comparable skill, experience and reputation
4 of the attorneys included in the survey and often no indication of the relevant legal
5 market. *See e.g., Shirrod v. Director, Office of Workers' Compensation Programs*,
6 809 F.3d 1082, 1089 (9th Cir. 2015) (reversing where lower court relied on a
7 national survey rather than local rates). Similarly, I do not apply the rates billed by
8 and paid to opposing counsel who are salaried, contract government attorneys, or
9 retained insurance defense because they generally charge rates well below market
10 and are paid win or lose, so they do not share the risk taken by lawyers who
11 depend upon fee-shifting statutes and other contingent fees. *See e.g., Shapiro v.*
12 *Paradise Valley Unified School Dist.*, 374 F.3d 857, 866 (9th Cir. 2004) (because
13 government lawyers and retained insurance defense attorneys generally bill at
14 lower rates, they do not reflect the same legal market).
15

16 21. I apply the rule that the relative “simplicity” or “complexity” of a case
17 is reflected in the efficiency of hours, not the lodestar rate of the attorney. *See Van*
18 *Skike v Director, Office of Workers' Compensation Programs*, 557 F3d 1041, 1046
19 (9th Cir. 2009).

20 22. I estimate that I review nearly 100 fee motions, fee awards, and
21 supporting declarations in the course of a year. I look at court orders in the past
22 year awarding statutory fees or awarding fees as a discovery sanction. I subscribe
23 to several websites that report legal news. If I learn of a case where there is likely
24 to have been a fee motion, I obtain a copy of the motion, supporting declarations
25 and any subsequent fee award from public sources, including the on-line document
26 services for the Los Angeles Superior Court website and PACER.

27 23. In all the fee declarations that I prepare, I apply my understanding of
28

1 the U.S. Supreme Court decision in *Blum v. Stenson*, 465 U.S. 886 (1984), that
2 “rates charged in private representations may afford relevant comparisons.” *Id.* at
3 895 and fn. 11 (“The statute and legislative history establish that ‘reasonable fees’
4 under [42 U.S.C.] § 1988 are to be calculated according to the prevailing market
5 rates in the relevant community, regardless of whether plaintiff is represented by
6 private or nonprofit counsel”). I understand this to mean that fees for civil rights
7 lawyers should approximate the rates charged by attorneys of comparable skill,
8 experience and reputation in the relevant legal market, who are engaged in
9 similarly complex litigation, regardless of whether the attorneys work for a non-
10 profit, represent individuals on contingency, serve as in-house counsel, or charge a
11 minimal rate with the possibility of receiving a market rate award if successful.
12 *See, Nadarajah v Holder*, 569 F3d at 910.

14 24. I apply several other principles to establish reasonable market rates.
15 First, when available, I look to rates awarded to the attorney in previous cases
16 because I understand such awards are strong evidence of reasonable rates. Past
17 decisions where “a lawyer charges a particular hourly rate, and gets it, is evidence
18 bearing on what the market rate is, because the lawyer and his clients are part of
19 the market.” *Carson v. Billings Police Dept.*, 470 F. 3d 889, 892 (9th Cir. 2008).

20 25. I also look to billing rates by attorneys engaged in similarly complex
21 litigation as an approved method of setting market rates for civil rights attorneys
22 who do not bill clients on an hourly basis. *See Camacho v. Bridgeport Fin., Inc.*,
23 523 F.3d 973, 980 (9th Cir. 2008) (approving use of declarations of other attorneys
24 regarding prevailing rates in the relevant market and rates in other cases).

25 26. Finally, in my experience, billing rates in Los Angeles have increased
26 annually at more than the cost-of-living rate. For example, in *Charlebois v. Angels*
27 *Baseball, LP*, 2012 U.S. Dist. LEXIS 91069, cv 10-0853 DOC (C.D. Cal. May 30,

2012), Judge Carter rejected the defense’s argument that the rate then sought by attorney V. James DeSimone should be limited to what he had received in prior years. “[C]ourts routinely recognize that fee rates increase over time based on a variety of factors.” 2012 U.S. Dist. LEXIS 91069, *24. In *Parker v. Vulcan Materials Co. Long Term Disability Plan*, No. EDCV 07-1512 ABC (OPx), 2012 WL 843623, *7 (C.D. Cal. Feb. 16, 2012), the Court approved an increase of 10 percent in one year, noting “[i]t is common practice for attorneys to periodically increase their rates for various reasons, such as to account for expertise gained over time, or to keep up with the increasing cost of maintaining a practice.”

27. I have not set my rate for 2020. The rate I applied to fee motions and negotiations in 2019 was \$1,000 an hour. In May 2019, this was the rate used to calculate my fees in *Mitchell v. City of Los Angeles*, Case No. 2:16-cv-01750-SJO-JPR (C.D. Cal.). Over the last few years, I have resolved attorney fees in several matters applying rates of \$900 an hour up to \$975. The last court-awarded fee I received was from the Ninth Circuit, approving my 2014 rate of \$875 an hour in *CPR for Skid Row v. City of Los Angeles*, 779 F.3d 1098 (9th Cir. 2015). The rate of \$1,000 an hour represents an increase of slightly less than three percent annually from my last court-approved rate in *CPR for Skid Row*.

28. The table attached to my Declaration as Exhibit 2 sets out the summary of the rates I considered for the attorneys seeking fees by this motion.

LITT FIRMS:

BARRETT S. LITT

29. Mr. Litt seeks a rate of \$1200 an hour in this matter. In my experience and opinion, Mr. Litt is one of the most skilled civil rights and class action litigators in the nation. Based on my interactions with civil rights attorneys throughout the country, I believe my opinion of his reputation is widely shared.

1 30. I have known Mr. Litt for approximately 46 years and co-counseled
2 cases with him repeatedly over that time period after I was admitted to practice law
3 in 1978. These include several of the cases listed above, including *Tipton-*
4 *Whittingham v. City of Los Angeles*, *Multi-Ethnic Immigrant Worker Network v.*
5 *City of Los Angeles*, CV 07-7032 AHM, 2009 U.S. Dist. LEXIS 132270 (C.D.
6 Cal. 6/24/09), and, currently *Chua v. City of Los Angeles*, Case No. 16-cv-00237
7 JAK GJS (C.D. Cal.) .

8
9 31. Mr. Litt seeks a rate of \$1200 an hour for 2020 (which I am advised is
10 the year being used for all counsel for rates because the fee motion will be ruled on
11 in the second half of 2020). The rate of \$1200 an hour is at the lower end of the
12 legal market for an attorney of Mr. Litt's skill, experience and reputation. To
13 support my opinion, I submit six recent fee application and fee awards setting rates
14 at approximately the same rate for attorneys with far less experience than Mr. Litt
15 in both civil rights and private commercial firms.

16 32. In *Nozzi v. Housing Authority of the City of Los Angeles*, Case No.
17 2:07-cv-00380-PA-FFM) (C.D. Cal. 2018), the Court approved the class fee on a
18 lodestar cross-check. Because the Court's Order did list the approved rates, I
19 reviewed the Declaration of Barrett S. Litt in Support of Plaintiffs' Motion for
20 Final Approval of Settlement for specific rates. [Doc. 323]. In *Nozzi*, Mr. Litt's
21 2017 rate was \$1,150, just \$50 below the rate he requests three billing years later.

22 33. Attached at Exhibit 3 is the Declaration of Gerald Knapton filed in
23 *Skeen v. BMW North America*, 2016 U.S. Dist. LEXIS 97188, Civ. No. 2:13-cv-
24 1531-WHW-CLW (D.C. NJ 2016), a class-action product defect case in which
25 Paul Keisel and Ray Boucher were counsel, both well-known attorneys in Los
26 Angeles. In *Skeen*, Mr. Kiesel sought a 2016 rate of \$1100 an hour and Mr.
27

1 Boucher, identified in the Knapton declaration as a 1984 law graduate, requested
2 \$925 for the early part of the litigation and \$1100 for work done in 2016. I know
3 Mr. Kiesel and co-counseled a case with him when I was at the ACLU in the early
4 1990s. Mr. Knapton attested that the rates for Mssrs. Kiesel and Boucher were
5 reasonable in the Los Angeles market, especially for class actions, and consistent
6 with past rates approved for both. Ex. 3, ¶¶ 32,34. I reviewed the PACER file in
7 *Skeen* and am aware that the judge determined that the rates were somewhat high
8 for New Jersey; however, the Court reached the same rate of compensation by
9 applying a multiplier to a slightly lower rate. The Court used the unadjusted 2015
10 Real Rate Report of \$848 for partners with 21 years of experience, which was the
11 approximate amount of experience Mssrs. Kiesel and Boucher had at the time.
12 *Skeen v. BMW*, 2016 U.S. Dist. LEXIS 97188, *71-72 and n.6 (D NJ 2016). I note
13 that each attorney had less than half the experience Mr. Litt has now.
14

15 34. Mr. Kiesel was awarded fees at the rate of \$1100 an hour in 2015 in
16 the Central District, when he had just 30 years of experience. Attached at Exhibit
17 4 is the Declaration of Matthew Young, setting out the rates for the Kiesel firm in
18 *Stone v. Howard Johnson, International, Inc.*, Case No. 12-cv-01684 PSG
19 (MANx) (CD CA 2015). The rate for Mr. Kiesel is set out in Exhibit 3 to the
20 Young declaration. The Court's Order approving final settlement, including the
21 attorneys' fees, was entered at Docket # 123.

22 35. Attached at Exhibit 5 is the Notice of Ruling in *Hadsell v. City of*
23 *Baldwin Park*, Los Angeles Superior Court Case No. BC548602 (2019). I
24 reviewed the Court's Minute Order on the motion for attorneys' fees. The Court
25 approved rates of \$1100 an hour for attorneys Dordick and Shegarian. *Id.*, p. 2.
26 Based on a review of their respective websites and the State Bar website, I believe
27 Mr. Dordick is a 1987 admittee and Mr. Shergarian is a 1990 admittee, with 18
28

1 years and 21 years less experience, respectively, than Mr. Litt.

2 36. Attached at Exhibit 6 is a true and correct copy of the Minute Order
3 by Judge Michael Linfield in *Dr. Lauren Pinter-Brown v. University of California*
4 *at Los Angeles*, LASC Case No. BC624838 (Aug. 2018). I downloaded the
5 document from the Los Angeles Superior Court's online services on December 12,
6 2019, when I became aware of the ruling. Chart No. 1 to the Minute Order sets out
7 the approved rates for each attorney at Shergerian and Associates for whom fees
8 were sought. Mr. Shegerian's approved 2018 rate is \$1,100 an hour.

9 37. Attached at Exhibit 7 is the Order approving attorney fees in
10 *Schroeder v. County of San Bernardino*, Case No. ED CV 18-427 DMG (JCx). In
11 *Schroeder*, Judge Gee approved the 2019 rate of \$950 an hour for Dale Galipo
12 based on the Court's conclusion that Mr. Galipo had 28 years of experience at the
13 time. The Court noted that Mr. Galipo graduated from law school in 1984 but
14 listed no significant experience on his resumé prior to 1991. Ex. 7, p.5.

15 38. As further support for Mr. Litt's requested rate, I submit the
16 Declaration of Hannah Cannom, setting out rates for attorneys at Milbank Tweed
17 Hadley & McCloy LLP in 2014. The firm served as pro bono counsel with the
18 Disability Rights Legal Center in Los Angeles in a class-action Special Education
19 case. The Plaintiffs' attorneys filed a motion for attorney fees after prevailing on
20 appeal in the Ninth Circuit. *LAUSD v. Garcia*, Case: 10-55879 (9th Cir. 2014).

21 39. In support of the motion, Hannah Cannom, then an associate at
22 Milbank Tweed, filed a declaration setting out the rates for the firm's attorneys. A
23 true and correct copy of the Cannom declaration is attached at Exhibit 8. Ms.
24 Cannom attested that the 2014 rate for Daniel Perry, a 1999 law graduate and a
25 partner at the firm, was \$1,135 an hour. At the time, Mr. Perry had only 15 years
26 of experience, less than one-third of the experience Mr. Litt has now. Ex. 8, ¶ 7.
27

LINDSAY BATTLES

40. Plaintiffs request a rate of \$700 an hour for Lindsay Battles, now with 10 years of experience. It is my understanding based on discussions with Mr. Litt that Ms. Battles carried the laboring oar on this case and seeks a rate at the higher end of the range of market rates for an attorney of her skill, experience and reputation. In my opinion, Ms. Battles' requested rate is comparable to those of similarly skilled attorneys in the Los Angeles legal market.

41. In *LAUSD v. Garcia*, fees were sought for Delilah Vinzon, then practicing for approximately 11 years, at the 2014 rate of \$900 an hour. Ex. 8, ¶ 8. Ms. Cannom also attested in her declaration that her 2014 customary billing rate as an eighth-year associate was \$800 an hour. *Id.*, ¶ 6. I am familiar with Ms. Cannom and am aware that she is a 2006 law graduate *Id.*, ¶ 2.

42. Ms. Battles' rate is also reasonable when compared to the 2018 rate of \$675 an hour approved for Anthony Nguyen in Exhibit 6. Ex. 6, Chart 1. Based on my review of the State Bar website, I understand Mr. Nguyen is a 2009 admittee. In 2018, he had three years less experience than Ms. Battles has now and was approved at a rate barely three percent below the rate she now requests. I also note that in 2019, in *Hadsell*, the Court approved the rate of \$800 an hour for Mr. Nguyen, an increase of almost 20 percent in one year. Ex. 5, p. 2.

43. As one final example of the reasonableness of Ms. Battles' requested rate, in *The Estate of Pream v. City of Long Beach*, Case NO. 17-cv-04295 TJH (FFMx), Plaintiffs requested 2019 rate for Rodney Diggs. A true and correct copy of the motion for attorney fees is attached at Exhibit 9. Mr. Diggs is identified in the motion as a 2010 law graduate. Ex. 9, p.13. His requested rate is at p.12, l. 22. It is my understanding, based on discussions with counsel in the case and my review of the PACER docket, that the case settled prior to a ruling on the motion.

MARTIN LITJMAER

44. Plaintiffs request a rate of \$600 an hour for Martin Lijtmaer. I am personally familiar with Mr. Litjmaer and am aware that his primary experience is as a criminal defense attorney. Mr. Lijtmaer is a 2008 law graduate.

45. The rate of \$600 for Mr. Lijtmaer is also reasonable when compared to the rate approved for attorneys in *Sheik Moinuddin v. State of California Dept. of Transportation*, LASC Case No. BC656161 (Aug. 13, 2019), an employment discrimination case. There the Court approved the rate of \$550 an hour for attorney Brandon Ruiz and \$525 an hour for Sereena Singh. Ex. 10, p.4. Based on my preparation of a supporting fee declaration in *Moinuddin* and my review of the State Bar website, I understand that Mr. Ruiz is a 2009 law graduate and Ms. Singh is a 2011 law graduate. Mr. Ruiz has two years and Ms. Singh four years less experience than Mr. Lijtmaer has now.

PAUL ESTUAR

46. Mr. Estuar seeks a rate of \$800 an hour with 27 years of experience. I believe this is a reasonable rate in the Los Angeles legal market. In *Moinuddin*, the Court approved attorney fees at the 2019 rate of \$850 an hour for attorney Rob Hennig. Ex. 10, p.4. I know Mr. Hennig personally. He was a board member of the ACLU while I worked there and both prior to and after he attended law school. Based on personal knowledge, I believe Mr. Hennig is a 1994 law graduate. In 2019, he had two years less experience than Mr. Estuar has now.

47. Attached at Exhibit 11 is the order of the United States District Court in *Trevor Woods, et al. v. Officer John Fagan, et al.*, Case No. CV14-08374 VAP (Spx) (C.D. CA 2016), issued by the Honorable Virginia A. Phillips, Chief United States District Judge for the Central District of California. In *Woods*, the Court determined that a reasonable 2016 hourly rate for attorney Brian Dunn, managing

1 attorney at The Cochran Law Firm, was \$750.00 per hour. I am personally
2 familiar with Mr. Dunn. I provided a supporting declaration for his fee motion in
3 *Fagan*. I am aware that Mr. Dunn, like Mr. Estuar, is a 1993 law graduate.

4 48. More recently, I provided a supporting fee declaration for Mr. Dunn
5 and other attorneys in *Pream*, Case 2:17-cv-04295-TJH-FFM (C.D. CA April 12,
6 2019) [Doc. 136-2]. Ex. 9. In *Pream*, Mr. Dunn requested an hourly 2019 rate of
7 \$850 an hour. It is my understanding, based on a review of the Court's docket and
8 discussions with one of the attorneys in the case, that the case settled, including all
9 fees, prior to any decision by the Court on the rates.

10 **STACEY BROWN**

11 49. Plaintiffs request a rate of \$700 an hour for Stacey Brown, a 2006 law
12 graduate now with 14 years of experience. Based on the evidence submitted in
13 support of the requested rates for Lindsay Battles and Martin Lijtmaer, both 2008
14 law graduates, the rate sought for Ms. Brown is well within the reasonable market
15 range for an attorney with her skill and experience.

16 **COOK, ANDERSON-BARKER, FLYNN FIRMS**
17 **DONALD COOK**

18 50. Plaintiffs seek a rate of \$925 an hour for attorney Donald W. Cook. I
19 know Mr. Cook personally. We participate on the National Police Accountability
20 Project list serve and have both presented at the same CLEs on police misconduct
21 issues. In my experience, Mr. Cook is one of the most skilled practitioners in this
22 area of law. His work has produced numerous precedential decisions that I and
23 others rely on for our cases. In my opinion, he is widely viewed as highly skilled
24 and experienced. The rate of \$925 an hour is well within the range of market rates
25 for comparably skilled attorneys in the Central District.
26
27
28

1 51. Attached at Exhibit 12 is the Order awarding attorney fees as part of
2 the approval of the class settlement in *McKibben v. McMahon*, 2019 WL 1109683,
3 Case No. EDCV 14-2171 JGB (Spx) (C.D. CA Feb. 28, 2019). Based on my
4 review of the Court's docket, I am aware that the motion for attorney fees was filed
5 in 2018. In *McKibben*, the Court approved the 2018 rate of \$875 an hour for
6 David McLane. Ex. 12, *14. I know Mr. McLane personally and am aware that
7 he graduated from UCLA in 1986. Mr. Cook has four more years of experience
8 now. The difference in their rates over four years is \$50, little more than one
9 percent or approximately \$12 an hour per year. (I also note that, in that case, Judge
10 Bernal found Mr. Litt's rate of \$1150 reasonable.)

11 52. In Exhibits 4, the 2015 rate approved for Paul Kiesel was \$1100 an
12 hour. Ex. 4, p. 7. Donald Cook and Paul Kiesel both graduated from law school in
13 1984. Mr. Cook has five more years of experience than Mr. Kiesel had in 2015.

14 53. Attached at Exhibit 13 is the decision in *Garza v. City of Los Angeles*,
15 2018 WL 5859549, Case No. 2:16-cv-03579-SVW-AFM (CD Cal. 2018),
16 awarding fees to civil rights attorney V. James DeSimone at the 2018 rate of \$875
17 an hour. I know Mr. DeSimone since approximately 1988, when he contacted the
18 ACLU to ask for assistance on his first appellate argument. Based on my personal
19 interactions with Mr. DeSimone, I believe that he is a 1985 law graduate. His
20 approved 2018 rate is only \$50 below the 2020 rate now requested for Mr. Cook.

21 **ROBERT MANN**

22 54. Plaintiffs request \$975 an hour for attorney Robert Mann. It is my
23 understanding that Plaintiffs seek a somewhat lower rate for Mr. Mann, a 1971 law
24 graduate, based on his retirement and, therefore, have calculated his rate based on
25 only 45 years of experience. Mr. Mann was a UCLA classmate of a lawyer at the
26
27

1 ACLU when I began working there, which is when I first met him. He is highly
2 skilled and experienced as a civil rights lawyer. The rate he seeks is supported by
3 the approved rates cited to support Mr. Cook's requested rate.

4 **SAMANTHA KOERNER**

5
6 55. Plaintiffs request \$700 an hour for Samantha Koerner. I know Ms.
7 Koerner personally and, on that basis, understand that she is a 1994 law graduate.
8 While this rate is at the low end of the market range for an attorney with 26 years
9 of experience, it is my understanding that Ms. Koerner's experience is
10 concentrated on motion writing, rather than the broader case strategy and lead
11 counsel role. Ms. Koerner's requested rate is supported by the evidence
12 supporting the rates for Lindsay Battles and Stacey Brown.

13 **CYNTHIA ANDERSON-BARKER**

14
15 56. Plaintiffs request \$775 an hour for attorney Cynthia Anderson-Barker.
16 I have co-counseled several cases with Ms. Anderson-Barker, including *Santiago*
17 *v. City of Los Angeles*, Case No. CV 15-8444-BRO(Ex) (CD Cal.) and *Multi-Immigrant*
18 *Worker Organizing Network ("MIWON") v. City of Los Angeles*, cv 07-7032 AHM
19 (CD Cal.). It is my understanding that she is a 1995 admittee. In my experience,
20 she is a highly skilled and experienced attorney who litigated complex civil rights
21 cases, particularly in the area of police misconduct issues. The rate of \$775 an hour
22 is at the lower end of the market range for an attorney of her skill and experience.

23 57. In *Moinuddin*, the Court approved attorney fees at the 2019 rate of
24 \$850 an hour for attorney Rob Hennig, a 1994 law graduate. Ex. 10, p.4.

25 58. In *Trevor Woods*, the Court approved a 2016 hourly rate for attorney
26 Brian Dunn at \$750 an hour. Ex. 11. As noted above, Mr. Dunn is a 1993 law
27 graduate. In *Pream*, Mr. Dunn's 2019 hourly rate was \$850 an hour. Ex. 9.

1 59. In *Nozzi*, the lodestar cross-check applied a 2017 rate of \$750 an hour
2 for attorney Patrick Dunlevy, identified as a 1992 law graduate. *See* Case 2:07-cv-
3 00380-PA-FFM (CD Cal. 12/22/17) [Doc. 323, p. 4]. Also in *Nozzi*, Hernán Vera,
4 formerly the Executive Director of Public Counsel and identified as a 1994 law graduate,
5 was calculated at the 2017 rate of \$765 an hour, just \$10 an hour below the 2020 rate
6 requested for Ms. Anderson-Barker.

7 **COLLEEN FLYNN**

8
9 60. Plaintiffs request compensation for attorney Colleen Flynn at the rate
10 of \$740 an hour. I know Ms. Flynn well and have known her since she was a law
11 student. On that basis, I am aware that she is a 2004 law graduate. Over the
12 course of the last 15 years, I have co-counseled several cases with her, including,
13 among others, the *MIWON* case. Currently, Ms. Flynn is one of my co-counsel in
14 *Chua v. City of Los Angeles*, 2:16-cv-00237 JAK GJS (CD Cal), a class-action
15 First Amendment protest mass arrest case; and in *Rivera Martinez v. The Geo*
16 *Group*, Case No. 5:18-cv-01125 SP (CD Cal), a civil rights lawsuit on behalf of
17 former detainees at the Adelanto ICE detention facility.

18 61. In 2019 in *Chua*, the plaintiffs filed a motion for approval of attorney
19 fees in which they request a rate of \$725 a hour for Ms. Flynn. The rate of \$740 an
20 hour is a modest \$15 increase on her 2019 rate.

21 62. Ms. Flynn's requested rate is also supported by the 2019 rate of \$700
22 an hour for Mr. Diggs, a 2010 law graduate, in *Pream*. Ex. 9. It also reasonable
23 when measured against the rate of \$730 an hour in *Nozzi* for Stephanie Carroll,
24 identified as a 2004 law graduate. *See* Case 2:07-cv-00380-PA-FFM (CD Cal.
25 12/22/17) [Doc. 323, p. 5].

26 **SUPPORT STAFF**

1 63. Plaintiffs also seek compensation for support staff at rates ranging
2 from \$360 an hour for Senior Paralegals, \$225 for Experienced Paralegals, \$175 an
3 hour for Paralegals, \$125 an hour for Junior Paralegals, and \$225 for Law Clerks.
4 Plaintiffs are entitled to compensation for paralegals and law clerks at market rate.
5 *Missouri v. Jenkins*, 491 U.S. 274, 286 (1989). In my experience, the practice in
6 the Central District is to bill private clients for paralegal and law clerk services. I
7 base my opinion on my review of multiple fee declarations and applications filed
8 by pro bono counsel in public interest and civil rights cases.

9 64. For example, in 2014, Milbank Tweed billed a paralegal with 8 years
10 of experience at \$230 an hour. Ex. 8, ¶12. I note the paralegal had a juris doctor
11 in addition to a Bachelor of Arts, but was not admitted to practice law.

12 65. In *Nozzi*, the fees included billing for paralegals at 2017 rates ranging
13 from \$335 an hour to \$150 an hour and \$200 an hour for law clerks. *Nozzi*, Case
14 2:07-cv-00380-PA-FFM (CD Cal. 12/22/17) [Doc. 323, pp. 4-5]. In *McKibben*,
15 paralegal compensation was approved at an average rate of \$235 an hour. Ex. 12,
16 *14. In *Moinuddin*, paralegals were approved at \$165 an hour. Ex. 10, p. 4.

17 I declare under penalty of perjury that the foregoing is true and correct.
18 Executed this 3rd day of February 2020 at Santa Monica, California.
19
20

21 

22 CAROL A. SOBEL
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27
28

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Attorneys for Plaintiffs
(Other counsel not listed)

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARY AMADOR, *et al.*,

Plaintiffs,

vs.

COUNTY OF LOS ANGELES, *et al.*,

Defendants.

Case No. CV 10-01649 SVW (JEMx)

[Honorable Stephen V. Wilson]

**DECLARATION OF RICHARD M.
PEARL IN SUPPORT OF MOTION
FOR ATTORNEYS' FEES**

Date: July 20, 2020
Time: 1:30 p.m.
Crtn: 10A

DECLARATION OF RICHARD M. PEARL

1
2 1. I am a member in good standing of the California State Bar. I am in
3 private practice as the principal of my own law firm, the Law Offices of Richard M.
4 Pearl, in Berkeley, California. I specialize in issues related to court-awarded
5 attorneys' fees, including the representation of parties in fee litigation and appeals,
6 serving as an expert witness, and serving as a mediator and arbitrator in disputes
7 concerning attorneys' fees and related issues. In this case, I have been asked by
8 Plaintiffs' counsel to render my opinion on the reasonableness of the hourly rates
9 they are requesting in this matter.¹

10 2. I make this Declaration in Support of the Plaintiffs' Motion for
11 Reasonable Attorneys' Fees. To form my opinions, I have discussed this matter with
12 Barry Litt and reviewed counsel's qualifications and experience as well as various
13 materials that demonstrate the nature of the work required by this case and the
14 hourly rates requested.

15
16 **My Background and Experience**

17 3. Briefly summarized, my background is as follows: I am a 1969
18 graduate of Boalt Hall (now Berkeley) School of Law, University of California,
19 Berkeley, California. I took the California Bar Examination in August 1969 and
20 passed it in November of that year, but because I was working as an attorney in
21 Atlanta, Georgia for the Legal Aid Society of Atlanta (LASA), I was not admitted to
22 the California Bar until January 1970. I worked for LASA until the summer of 1971,
23 then went to work in California's Central Valley for California Rural Legal
24 Assistance, Inc. (CRLA), a statewide legal services program. From 1977 to 1982, I

25 _____
26 ¹ I understand that, under the terms of the settlement agreement, Plaintiffs' counsel will not
27 receive the full hourly rates they are using, but they are nonetheless using the rates I address as
28 their reasonable hourly rates.

1 was CRLA's Director of Litigation, supervising more than fifty attorneys. In 1982, I
2 went into private practice, first in a small law firm, then as a sole practitioner.
3 Martindale Hubbell rates my law firm "AV." I also have been selected as a Northern
4 California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010,
5 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019. A true and correct copy
6 of my Resume is attached as Exhibit A.

7 4. Since 1982, my practice has been a general civil litigation and appellate
8 practice, with an emphasis on cases and appeals involving court-awarded attorneys'
9 fees. I have lectured and written extensively on court-awarded attorneys' fees. I have
10 been a member of the California State Bar's Attorneys' Fees Task Force and have
11 testified before the State Bar Board of Governors and the California Legislature on
12 attorneys' fee issues. I am the author of California Attorney Fee Awards (3d ed Cal.
13 CEB 2010) and its 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and March
14 2019 Supplements. I also was the author of California Attorney Fee Awards, 2d Ed.
15 (Calif Cont. Ed. of Bar 1994), and its 1995, 1996, 1997, 1998, 1999, 2000, 2001,
16 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements. This treatise has been
17 cited by the California appellate courts on more than 35 occasions. *See, e.g.,*
18 *Graham v. DaimlerChrysler Corp.*, 34 Cal.4th 553, 576, 584 (2004); *Lolley v.*
19 *Campbell*, 28 Cal.4th 367, 373 (2002); *Equilon Enters. v. Consumer Cause, Inc.*, 29
20 Cal.4th 53, 62 (2002); *In re Conservatorship of Whitley*, 50 Cal.4th 1206, 1214-
21 15, 1217 (2010); *Chodos v. Borman*, 227 Cal.App.4th 76, 100 fn. 12 (2014);
22 *Chacon v. Litke*, 181 Cal.App.4th 1234, 1259 (2010); *Syers Properties Ill, Inc. v.*
23 *Rankin*, 226 Cal.App.4th 691, 698, 700 (2014). Federal courts also have cited it.
24 *See In re Hurtado*, Case No. 09-16160-A-13, 2015 WL 6941127 (E.D. Cal. Nov. 6,
25 2015); *TruGreen Companies LLC v. Mower Brothers, Inc.*, 953 F. Supp. 2d 1223,
26 1236 nn.50, 51 (D. Utah 2013). I also authored the 1984, 1985, 1987, 1988, 1990,
27 1991, 1992, and 1993 Supplements to its predecessor, CEB's California
28

1 Attorney's Fees Award Practice. In addition, I authored a federal manual on
2 attorneys' fees entitled "Attorneys' Fees: A Legal Services Practice Manual,"
3 published by the Legal Services Corporation. I also co-authored the chapter on
4 "Attorney Fees" in Volume 2 of CEB's Wrongful Employment Termination
5 Practice, 2d Ed. (1997).

6 5. More than 95% of my practice is devoted to issues involving court-
7 awarded attorney's fees. I have been counsel in over 200 attorneys' fee applications
8 in state and federal courts, primarily representing other attorneys. I also have briefed
9 and argued more than 40 appeals, at least 30 of which have involved attorneys' fees
10 issues. I have successfully handled five cases in the California Supreme Court
11 involving court-awarded attorneys' fees: (1) *Maria P. v. Riles*, 43 Cal. 3d 1281
12 (1987), which upheld a C.C.P. section 1021.5 fee award based on a preliminary
13 injunction obtained against the State Superintendent of Education, despite the fact
14 that the case ultimately was dismissed under C.C.P. section 583; (2) *Delaney v.*
15 *Baker*, 20 Cal. 4th 23 (1999), which held that heightened remedies, including
16 attorneys' fees, are available in suits against nursing homes under California's Elder
17 Abuse Act; (3) *Ketchum v. Moses*, 24 Cal. 4th 1122 (2001), which held, *inter alia*,
18 that contingent risk multipliers remain available under California attorney fee law,
19 despite the United States Supreme Court's contrary ruling on federal law (note that
20 in *Ketchum*, I was primary appellate counsel in the Court of Appeal and "second
21 chair" in the Supreme Court); (4) *Flannery v. Prentice*, 26 Cal. 4th 572 (2001),
22 which held, again despite an adverse United States Supreme Court ruling under
23 federal law that, in the absence of an agreement to the contrary, statutory attorneys'
24 fees belong to the attorney whose services they are based upon; and (5) *Graham v.*
25 *DaimlerChrysler Corp.*, 34 Cal. 4th 553 (2004), which held, *inter alia*, that the
26 catalyst theory of fee recovery remained valid under California law despite adverse
27 federal law and that lodestar multipliers could be applied to fee motion work. In
28

1 that case, I represented trial counsel in both the Court of Appeal (twice) and
2 Supreme Court, as well as on remand in the trial court. I also represented and
3 argued on behalf of *amicus curiae* in *Conservatorship of McQueen*, 59 Cal. 4th 602
4 (2014), which held that statutory attorneys' fees for appellate work were not
5 considered "enforcement fees" subject to California's Enforcement of Judgments
6 law; I presented the argument relied upon by the Court. Along with Richard
7 Rothschild of the Western Center on Law and Poverty, I also prepared and filed an
8 *amicus curiae* brief in *Vasquez v. State of California*, 45 Cal.4th 243 (2009). I also
9 have handled numerous other appeals, including: *Davis v. City & County of San*
10 *Francisco*, 976 F.2d 1536 (9th Cir. 1992); *Mangold v. CPUC*, 67 F.3d 1470 (9th
11 Cir. 1995); *Velez v. Wynne*, 2007 U.S. App. LEXIS 2194 (9th Cir. 2007); *Camacho*
12 *v. Bridgeport Financial, Inc.*, 523 F.3d 973 (9th Cir. 2008); *Center for Biological*
13 *Diversity v. County of San Bernardino*, 185 Cal.App.4th 866 (2010); and
14 *Environmental Protection Information Center v. California Dept. of Forestry &*
15 *Fire Protection et al*, 190 Cal.App.4th 217 (2010); and *Heron Bay Home Owners*
16 *Association v. City of San Leandro*, 19 Cal. App. 5th 376 (2018). For an expanded
17 list of my reported decisions, see Exhibit A.

18 6. I have been retained by various governmental entities, including the
19 California Attorney General's office, at my then current rates to consult with them
20 regarding their affirmative attorney fee claims.

21 7. I am frequently called upon to opine about the reasonableness of
22 attorneys' fees, and numerous state and federal courts have relied on my testimony
23 on those issues.

24 8. The following California appellate cases have referenced my testimony
25 favorably:

- 26 • *Kerkeles v. City of San Jose*, 243 Cal.App.4th 88 (2015);
- 27 • *People v. Native Wholesale Supply Co.*, 37 Cal.App.5th 73 (2019) (in
28 unpublished section);

- 1 • *Habitat and Watershed Caretakers v. City of Santa Cruz*, 2015 Cal.
2 App. Unpub. LEXIS 7156 (2015);
- 3 • *Laffitte v. Robert Half Int'l Inc.*, 231 Cal.App.4th 860 (2014), *aff'd*
4 (2016) 1 Cal.5th 480;
- 5 • *In re Tobacco Cases I*, 216 Cal.App.4th 570 (2013);
- 6 • *Heritage Pacific Financial, LLC v. Monroy*, 215 Cal.App.4th 972
7 (2013);
- 8 • *Wilkinson v. South City Ford*, 2010 Cal. App. Unpub. LEXIS 8680
9 (2010);
- 10 • *Children's Hospital & Medical Center v. Bonta*, 97 Cal.App.4th 740
11 (2002);
- 12 • *Church of Scientology v. Wollersheim*, 42 Cal.App.4th 628 (1996).

13 9. The following federal cases also have referenced my testimony
14 favorably:

- 15 • *Ridgeway v. Wal-Mart Stores, Inc.*, 269 F. Supp. 3d 975 (N.D. Cal.
16 2017);
- 17 • *Antoninetti v. Chipotle Mexican Grill, Inc.*, No. 08-55867 (9th Cir.
18 2012), Order filed Dec. 26, 2012, at 6;
- 19 • *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir.
20 2010) (the expert declaration referred to is mine);
- 21 • *Beaver v. Tarsadia Hotels*, 2017 U.S.Dist.LEXIS 160214 (S.D. Cal.
22 2017)
- 23 • *Notter v. City of Pleasant Hill*, 2017 U.S.Dist.LEXIS 197404, 2017
24 WL 5972698 (N.D. Cal. 2017);
- 25 • *Villalpondo v. Exel Direct, Inc.*, 2016 WL 1598663 (N.D. Cal. 2016);
- 26 • *State Compensation Insurance Fund v. Khan et al*, Case No. SACV 12-
27 01072-CJC (JCGx) (C.D. Cal.), Order Granting in Part and Denying in
28

1 Part the Zaks Defendants' Motion for Attorneys' Fees, filed July 6,
2 2016 (Dkt. No. 408);

- 3 • *In re Cathode Ray Tube Antitrust Litig.*, Master File No. 3:07-cv-5944
4 JST, MDL No. 1917 (N.D. Cal. 2016) 2016 U.S. Dist. LEXIS 24951
5 (Report And Recommendation Of Special Master Re Motions (1) To
6 Approve Indirect Purchaser Plaintiffs' Settlements With the Phillips,
7 Panasonic, Hitachi, Toshiba, Samsung SDI, Technicolor, And
8 Technologies Displays Americas Defendants, and (2) For Award Of
9 Attorneys' Fees, Reimbursement Of Litigation Expenses, And
10 Incentive Awards To Class Representative, Dkt. 4351, dated January
11 28, 2016, *adopted in relevant part*, 2016 U.S. Dist. LEXIS 88665;
- 12 • *Gutierrez v. Wells Fargo Bank*, 2015 U.S. Dist. LEXIS 67298 (N.D.
13 Cal. 2015);
- 14 • *Holman v. Experian Information Solutions, Inc.*, 2014 U.S. Dist.
15 LEXIS 173698 13 (N.D. Cal. 2014);
- 16 • *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, MDL
17 No. 1827 (N.D. Cal.), Report and Recommendation of Special Master
18 Re Motions for Attorneys' Fees and Other Amounts by Indirect-
19 Purchaser Class Plaintiffs And State Attorneys General, Dkt. 7127,
20 filed Nov. 9, 2012, *adopted in relevant part*, 2013 U.S. Dist. LEXIS
21 49885 (N.D. Cal. 2013) ("*TFT-LCD (Flat Panel) Report &*
22 *Recommendation*");
- 23 • *Walsh v. Kindred Healthcare*, 2013 U.S. Dist. LEXIS 176319 (N.D.
24 Cal. 2013);
- 25 • *A.D. v. California Highway Patrol*, 2009 U.S. Dist. LEXIS 110743, at
26 *4 (N.D. Cal. 2009), *rev'd on other grounds*, 712 F.3d 446 (9th Cir.
27 2013), *reaffirmed and additional fees awarded on remand*, 2013 U.S.
28 Dist. LEXIS 169275 (N.D. Cal. 2013);
- *Hajro v. United States Citizenship & Immigration Service*, 900 F. Supp.
2d 1034, 1054 (N.D. Cal 2012);

- 1 • *Garcia v. Resurgent Capital Servs.*, 2012 U.S. Dist. LEXIS 123889
2 (N.D. Cal. 2012);
- 3 • *Rosenfeld v. United States Dep't of Justice*, 904 F. Supp. 2d 988, 1002
4 (N.D. Cal. 2012);
- 5 • *Stonebrae, L.P. v. Toll Bros., Inc.*, 2011 U.S. Dist. LEXIS 39832, at *9
6 (N.D. Cal. 2011) (thorough discussion), *aff'd* 2013 U.S. App. LEXIS
7 6369 (9th Cir. 2013);
- 8 • *Armstrong v. Brown*, 2011 U.S. Dist. LEXIS 87428 (N.D. Cal. 2011);
- 9 • *Lira v. Cate*, 2010 WL 727979 (N.D. Cal. 2010);
- 10 • *Californians for Disability Rights, Inc. v. California Dep't of*
11 *Transportation*, 2010 U.S. Dist. LEXIS 141030 (N.D. Cal. 2010);
- 12 • *Nat'l Federation of the Blind v. Target Corp.*, 2009 U.S. Dist. LEXIS
13 67139 (N.D. Cal. 2009);
- 14 • *Prison Legal News v. Schwarzenegger*, 561 F.Supp.2d 1095 (N.D. Cal.
15 2008) (an earlier motion);
- 16 • *Bancroft v. Trizechahn Corp.*, No. CV 02-2373 SVW (FMOx), Order
17 Granting Plaintiffs Reasonable Attorneys' Fees and Costs In the
18 Amount of \$168,886.76, Dkt. 278 (C.D. Cal. Aug. 14, 2006);
- 19 • *Willoughby v. DT Credit Corp.*, No. CV 05-05907 MMM (CWx),
20 Order Awarding Attorneys' Fees After Remand, Dkt. 65 (C.D. Cal.
21 July 17, 2006);
- 22 • *Oberfelder v. City of Petaluma*, 2002 U.S. Dist. LEXIS 8635 (N.D.
23 Cal. 2002), *aff'd* 2003 U.S. App. LEXIS 11371 (9th Cir. 2003).

24 10. In addition, countless trial courts and arbitrators have relied on my
25 testimony, including several awards in the Los Angeles area. In particular, I testified
26 before a jury as Beats/Apple's expert on attorneys' fees in *Monster, LLC, et al.*, v.
27 *Beats Electronics, LLC et al.*, Los Angeles Superior Court Case No. BC595235
28 (2017), a commercial dispute, in which, based in part on my live testimony, a jury

1 awarded Beats the entire \$11,578,265.49 attorneys' fees and expenses claimed for
2 work on the merits. See also *Kaku v. City of Santa Clara*, Santa Clara Superior
3 Court No. 17CV319862, Fee Order filed January 22, 2019, reported at 2019 WL
4 331053 (Cal.Super. 2019).

5 **Counsel's Requested Hourly Rates Are Reasonable.**

6 11. Through my writing and practice, I have become familiar with the non-
7 contingent market rates charged by attorneys in California and elsewhere. I have
8 obtained this familiarity in several ways: (1) by handling attorneys' fee litigation;
9 (2) by discussing fees with other attorneys; (3) by obtaining declarations regarding
10 prevailing market rates in cases in which I represent attorneys seeking fees; and (4)
11 by reviewing attorneys' fee applications and awards in other cases, as well as
12 surveys and articles on attorney's fees in the legal newspapers and treatises.

13 12. In this case, I have consulted with Plaintiffs' counsel regarding their fee
14 application for their work in this matter. I have been advised that this is a class
15 action involving approximately 94,000 class members that addressed cutting edge
16 strip search issues; that the case was filed in 2010; that four separate motions for
17 class certification were filed; plaintiffs ultimately prevailed on liability after cross-
18 summary judgment motions; and the case settled, subject to this court's final
19 approval, for \$53 Million. I also am quite familiar with the work performed by Mr.
20 Litt and his firm over the past several years, and know that his and his firm's
21 experience, expertise, skill and reputation are of the highest caliber.

22 13. It is my understanding that Plaintiffs' counsel are claiming the
23 following hourly rates and hours through January 20, 2020, for billers with the noted
24 legal experience:

LITT FIRMS				
NAME	PRAC YRS [GRAD YR]	HOURS	RATE	TOTAL
Barrett S. Litt	51 (1969)	1417.1	\$1,200.00	\$1,700,520.00
Lindsay Battles	12 (2008)	3106.1	\$700.00	\$2,174,270.00

LITT FIRMS				
NAME	PRAC YRS [GRAD YR]	HOURS	RATE	TOTAL
Martin Lijtmaer	12 (2008)	103.5	\$600.00	\$62100.00
Paul Estuar	27 (1993)	318.6	\$800.00	\$254880.00
Stacey Brown	14 (2006)	48.1	\$700.00	\$33670.00
Julia White	Sr. Paralegal	881.4	\$360.00	\$317,304
Marie Bolanos	Sr. Paralegal	73.5	\$360.00	\$26,460
Leticia Ramirez	Exp. Paralegal	38	\$225.00	\$8550.00
Michelle Angeles	Exp. Paralegal	184.3	\$225.00	\$41467.50
Morgan Jackson	Exp. Paralegal	21.9	\$225.00	\$4927.50
Miguel Villafuerte	Paralegal	94.4	\$175.00	\$16520.00
Esteban Gil	Paralegal	183.7	\$175.00	\$32147.50
Rene Arriaza	Paralegal	238	\$175.00	\$41650.00
Esmeralda Moreno	Jr. Paralegal	212.9	\$125.00	\$26612.50
Emily McLane	Jr. Paralegal	34.8	\$125.00	\$4350.00
Veronica Aguilar	Jr. Paralegal	20.6	\$125.00	\$2575.00
Beatrice Montenegro	Jr. Paralegal	31.4	\$125.00	\$3925.00
Abraham Zavala	Jr. Paralegal	108.1	\$125.00	\$13512.50
Amber Phillips	Law Clerk	35.8	\$225.00	\$8055.00
Anais Martinez	Law Clerk	264.2	\$225.00	\$59445.00
Natalie Rastegari	Law Clerk	133.4	\$225.00	\$30015.00
Shelly Song	Law Clerk	24.5	\$225.00	\$5512.50
Arianna Price	Law Clerk	20	\$225.00	\$4500.00
Ayan K. Jacobs	Law Clerk	129.2	\$225.00	\$29070.00
Jacqueline Gil	Law Clerk	213.5	\$225.00	\$48037.50
Sujata Awasthi	Law Clerk	26.8	\$225.00	\$6030.00
Litt Total		7997.8		\$4,956,106.50
COOK, ANDERSON-BARKER, FLYNN FIRMS				
NAME	PRAC YRS [GRAD YR]	HOURS	RATE	TOTAL
Donald W. Cook	36 (1984)	248.5	\$925	\$229862.50
Robert Mann	45 (1971)	35.3	\$975	\$34417.50
Samantha Koerner	26 (1004)	95.9	\$700	\$67130.00
Cook Paralegals		72	\$360	\$25920.00
Cynthia Anderson-Barker	25 (1995)	60	\$775	\$46500.00

Colleen Flynn	16 (2004)	332	\$740	\$245680.00
Cook et al. Total		843.7		\$649,510.00
Combined Total		8841.5		\$5,606,616.50

13. In my opinion, these rates are entirely reasonable. Under California law, successful attorneys are entitled to their requested rates if those rates are “within the range of reasonable rates charged by and judicially awarded comparable attorneys for comparable work” in the applicable community. *Children’s Hosp. & Med. Ctr. v. Bonta*, 97 Cal.App.4th 740, 783 (2002). Federal law is to the same effect. *See, e.g., Davis v. City & Cty. of San Francisco*, 976 F.2d 1536, 1545 (9th Cir. 1992), *opinion vacated in part on denial of reh’g*, 984 F.2d 345 (9th Cir. 1993) (“Both the Supreme Court and this court have made clear that such rates should be established by reference to the fees that private attorneys of an ability and reputation comparable to that of prevailing counsel charge their paying clients for legal work of similar complexity”). Based on the information regarding hourly rates that I have gathered, some of which is summarized below, I am of the opinion that counsel’s requested hourly rates are well within the range of non-contingent market rates charged for reasonably similar services by Los Angeles Area attorneys of reasonably similar qualifications and experience in complex federal litigation such as this. The following data support my opinion:

Rates Found Reasonable in Other Cases

14. The hourly rate requested by Plaintiffs’ counsel are well within the range of the Los Angeles area rates found reasonable by various local courts for reasonably comparable services:

- In *Monster, LLC, et al., v. Beats Electronics, LLC et al.*, Los Angeles Superior Court Case No. BC595235 (2017), Order Granting Defendant and Cross-Complainant Beats Electronics, LLC’s Motion for Attorneys’ Fees and Costs, filed

June 27, 2018, a commercial dispute, the court found the following hourly rates reasonable for Beats' attorneys' work on the successful jury trial that determined the amount of reasonable attorneys' fees Monster would be required to pay as damages:

Boies, Schiller & Flexner	Bar Admittance or Law School Graduation	2016/2017 Rates
Partners:	1986	\$960/\$1,049
	2006	\$920/\$972
	2000	\$880
	2001	\$880
	2002	\$830
	1999	\$830
	2004	\$740 (2015); \$760 (2016)
	2006	\$680
	2007	\$650/\$714
	2009	\$600/\$800
Associates:	2004	\$680
	2009	\$610
	2013	\$460/\$533
	2013	\$490
	2010	\$630
	2011	\$480/\$602
Non-Attorneys Timekeepers:	2014-2015	\$420
		\$190-284

Gibson Dunn & Crutcher	Bar Admittance or Law School Graduation	2017 Rates
	1987	\$852 (through Aug. 2017)
		\$956 (from Sept. 2017)
	2008	\$592 (through Aug. 2017)
		\$696 (from Sept. 2017)
	2013	\$404 (through Aug. 2017)
		\$600 (from Sept. 2017)
	2015	\$520
	2016	\$472
	1997	\$960
	2006	\$736
Non-Attorneys Timekeepers:	1987	\$944
		\$216-\$335

- In *Nozzi v. Housing Authority*, 2018 U.S.Dist.LEXIS 26049 (C.D. Cal.

2018), a tenant class action, the court approved the following hourly rates as reasonable:

Kaye McLane Bednarski & Litt	Bar Admittance or Law School Graduation	2017 Rates
	1969	\$1,150
	1992	\$750
	1993	\$765
	2008	\$730
	Sr. Paralegal	\$335
	Jr. Paralegal	\$150
	Law Clerk	\$200

Public Counsel	Bar Admittance or Law School Graduation	2017 Rates
	1989	\$850
	1988	\$850
	1994	\$750
	1992	\$765
	2004	\$640
	2010	\$540

- In *Monster, LLC, et al., v. Beats Electronics, LLC et al.*, Los Angeles Superior Court Case No. BC595235, Order Granting Motions for Attorneys' Fees, filed October 12, 2017, the same *Monster* commercial dispute listed above, the court found the following 2017 rates to be reasonable for Beats's co-defendants who had won on summary judgment:

	Bar Admittance or Law School Graduation	2016 Rates (unless otherwise noted)
Partners:	1966	\$1,000 (2015); 1,245 (2016)
	1977	\$1,110 (2015)
	1981	\$910
	1985	\$995
	1992	\$875-885
	1995	\$910
	2002	\$750

Of Counsel:	1976	\$705
Associates:	2009	\$615 (2015); \$660 (2016)
Non-Attorneys Timekeepers:		\$380-90

• In *The Kennedy Commission v. City of Huntington Beach*, Los Angeles County Superior Court No. 30-2015-00801675, Order Granting Petitioners' Motion for Attorneys' Fees Pursuant to California Code of Civil Procedure § 1021.5, filed July 13, 2016, a writ of mandate action challenging a land use amendment adopted by the City of Huntington Beach, the court found the following hourly rates reasonable for the Plaintiffs' private *pro bono* law firm (prior to application of a 1.4 multiplier)²:

2016 Rates:	Bar Admission	Rates
	2001	\$900
	2014	\$450
2015 Rates:	Bar Admission	Rates
	2001	\$875
	2014	\$400

• In *Willits et al v. City of Los Angeles*, No. CV 10-5782 CCBM (RZx) (C.D. Cal.), Order Granting Motion for Attorneys' Fees and Costs, filed August 25, 2016 (Dkt. No. 418), a class action lawsuit against the City of Los Angeles under the Americans with Disabilities Act and the Rehabilitation Act of 1973 challenging the inaccessibility of the City's sidewalks, the court found the following 2015 hourly rates reasonable:

Law School	Rates
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² The *Kennedy Commission* fee award was remanded in conjunction with the reversal of the merits. 2017 Cal.App.Unpub.Lexis 7488 (2017).

1	1976	\$1,115.60
2	1977 (associate)	700
3	1981	795
4	1987	680-775
5	1993	750
6	1999	644-695
7	2001	625
8	2003	550
9	2006	525 —
10	2007	450
11	2008	473
12	2009	450
13	2010	350-400
14	2011	300-385
15	2012	300
16	2013	300-325
17	Paralegals and Law	110-250
18	Case Assistants	220-230
19	Docket Clerk	230

21 • In *State Compensation Insurance Fund v. Khan et al*, Case No. SACV
 22 12-01072-CJC(JCGx) (C.D. Cal.), Order Granting in Part and Denying in Part the
 23 Zaks Defendants' Motion for Attorneys' Fees, filed July 6, 2016 (Dkt. No. 408), a
 24 multi-defendant RICO action, the court found the following hourly rates reasonable:

25	Years of Experience	Rates
26	22	\$890
27	20	\$840

5	\$670
4	\$560
Paralegals	\$325-340
Case Assistants	\$220-230
Docket Clerk	\$230

• In *ScriptsAmerica, Inc. Ironridge Global LLC et al*, Case No. CV 14-03962-SJO (AGRx) (C.D. Cal.), Order Granting Defendant Ironridge Global LLC, John Kirkland, Brendan O'Neill's Motion for Attorney's Fees, filed January 12, 2016 (Dkt. No. 50), a contract dispute, the court found the following 2015 hourly rates reasonable:

Years of Experience	Rates
37	\$950
11	\$700
4	\$450
Paralegals	\$200-350

• In *Perfect 10, Inc. v. Giganews, Inc.*, 2015 U.S. Dist. LEXIS 54063 (C.D. Cal. 2015), filed March 24, 2015, *affirmed* 847 F.3d 657 (9th Cir. 2017), a copyright infringement action, the court found the following 2015 hourly rates reasonable:

Years of Experience	2015 Rate
29	\$825-930
18	\$750
17	\$705-750
12	\$610-640
11	\$660-690

10	670
9	660-690
8	470-525
7	640
5	375-560
4	350-410
3	505
2	450
1	360-370
Paralegals	240-345
Discovery Support	245-290

• In *Rodriguez v. County of Los Angeles*, 96 F.Supp.3d 990 (C.D. Cal. 2014), Order Granting Plaintiffs' Motion for Attorneys' Fees, filed December 29, 2014, *aff'd* 891 F.3d 779 (9th Cir. 2018), a civil rights action on behalf of five county jail prisoners, the district court found the following 2014 hourly rates reasonable, plus a 2.0 lodestar multiplier for merits work performed on the plaintiffs' California cause of action; the entire award was affirmed on appeal:

Years of Experience	Rate
45	\$975
28	700-775
26	775
10	600
6	500
Senior Paralegal	295
Other Paralegals	175-235
Law Clerk	250

• In *Hadsell v City of Baldwin Park*, No. BC 548602 (Superior Court for the County of Los Angeles) (Ruling on Plaintiffs' motion for attorney's fees dated 6/26/19), the Superior Court granted the following rates, plus a multiplier of 1.5 under California law. (Although the ruling does not indicate it, the case was likely an individual employment case, which is the primary focus of lead counsel's practice.)

Years of Experience	Rate
32	\$1100
29	\$1100
11	\$800
11	\$650
05	\$600
03	\$500

• In *Pinter-Brown v. UCLA*, No. BC 624838 (Superior Court for the County of Los Angeles) (Ruling on Plaintiffs' motion for attorney's fees dated 8/03/18), an individual employment case that resulted in a \$13 Million verdict, the Superior Court granted the following rates, plus a multiplier of 1.75 under California law.

Years of Experience	Rate
28	\$1100
10	\$675
06	\$500
03	\$350
02	\$500

Rate Information from Surveys

1 16. I also base my opinion on several credible surveys of legal rates, including
2 the following:

- 3 • In December 2015, Thomson Reuters published its Legal Billing
4 Report, Volume 17, Number 3. A true and correct copy of the pages of
5 that report listing California and West Region firms is attached to
6 hereto as Exhibit B. It shows that the requested rates are well within the
7 range of rates charged by Los Angeles area law firms for reasonably
8 comparable work.
- 9 • In an article entitled “On Sale: The \$1,150-Per Hour Lawyer,” written
10 by Jennifer Smith and published in the Wall Street Journal on April 9,
11 2013, the author describes as long as six years ago the rapidly growing
12 number of lawyers billing at \$1,150 or more revealed in public filings
13 and major surveys. A true and correct copy of that article is attached
14 hereto as Exhibit C. The article also notes that in the first quarter of
15 2013, the 50 top-grossing law firms billed their partners at an average
16 rate between \$879 and \$882 per hour. This average would include
17 attorneys in the 8-10 year span since that is the time those who are
18 going to make partner normally do so, suggesting that the more
19 experienced attorneys are frequently billing over \$1000.

20
21 **Hourly Rates Charged by Other Law Firms**

22 17. Plaintiffs’ counsel’s hourly rates also are well within the range of the
23 standard hourly non-contingent rates for comparable civil litigation stated in court
24 filings, depositions, surveys, or other reliable sources by numerous California law
25 firms that have offices in or regularly practice in the Los Angeles area.³ These rates

26 _____
27 ³ Although some of these firms are based in Northern California, these firms regularly practice in
28 the Los Angeles area, and the fact is that hourly rates charged in the Los Angeles area are
(footnote continued)

include, in alphabetical order:

Altshuler Berzon LLP

2018 Rates	Graduation Year	Rate
	1968-1983	\$940
	1985	920
	1989	900
	1991	885
	1992	875
	1994	835
	1998	795
	2000	740
	2001	725
	2008	540
	2009	515
	2010	485
	2012	435
	2013	415
	2014	390
	2015	365
	Law Clerks	285
	Paralegals	250
2017 Rates:	Years of Experience/Level	Rates
	Senior Partners	\$930
	Junior Partners (1991-2001)	\$875-690
	Associates (2008-2013)	\$510-365
	Paralegals	\$250
2015 Rates:	Years of Experience/Level	Rates
	32	\$895
	Junior Partners	\$825-630
	Associates	\$450-340
	Paralegals	\$250
2014 Rates:	Years of Experience	Rates
	38	\$895
	Paralegals	\$215

Arnold Porter LLP

2015 Rates:	Level	Rates
	Partners	Up to \$1,085
	Associates	Up to \$710
2014 Rates:	Years of Experience	Rates

generally higher than Northern California rates. Accordingly, if rates are reasonable by Northern California standards, they also are reasonable as Los Angeles area rates.

	49	\$995
	45	\$720
	39	\$655
2013 Rates:	Level	Rates
	Average Partner	\$815
	Highest Partner	\$950
	Lowest Partner	\$670
	Average Associate	\$500
	Highest Associate	\$610
	Lowest Associate	\$345

The Arns Law Firm LLP

2014 Rates:	Years of Experience	Rates
	37	\$950
	Law Clerks	\$165

Cooley LLP

2017 Rates:	Years of Experience	Rates
	22	\$905
2014 Rates:	Years of Experience	Rates
	31	\$1,095
	17	\$770
	9	\$685
2013 Rates:	Years of Experience	Rates
	30	\$1,035
	16	\$710
	8	\$645

Duane Morris LLP

2018 Rates:	Bar Admission Year	Rates
	1973	\$1,005
	2008	\$605
	2011	\$450
	2017	\$355
	Sr. Paralegal	\$395
2016 Rates:	Years of Experience	Rates
	43	\$880
	41	\$880
	26	\$720
	25	\$695

Hadsell, Stormer, Richardson & Renick

2015 Rates:	Years of Experience/Level	Rates
	42	\$1,050

	20	\$750
	26	\$700
	16	\$650
	13	\$600
	5	\$425
	4	\$375
	Law Clerks	\$225
	Paralegals	\$175-250
2012 Rates:	Years of Experience	Rates
	38	\$825
	33	\$775
	22-23	\$625
	17	\$600
	12	\$525
	10	\$425
	4	\$275
	3	\$250

Hausfeld LLP

2014 Rates:	Years of Experience	Rates
	45	\$985
	37	\$935-895
	15	\$610-510
	14	\$600
	7	\$490
	3	\$370
	Paralegals	\$300-320
	Law Clerks	\$325

Hooper, Lundy & Bookman

2019 Rates:	Law School Graduation Year	Rates
	1975	\$1,025
	1976	\$965
	1979	\$1,025
	2007	\$815
	2011	\$800
	2015	\$640
	2016	\$600
	2019	\$440
2018 Rates:	Law School Graduation Year	Rates
	1975	\$1,025
	1976	\$930
	1979	\$995
	2015	\$570

Jones Day

2016 Rates:	Bar Admission Year	Rates
--------------------	---------------------------	--------------

	2001	\$900
	2014	\$450
2015 Rates:	Bar Admission Year	Rates
	2001	\$875
	2014	\$400

Kirkland & Ellis

2017 Rates:	Years of Experience	Rates
	20	\$1,165
	9	\$995
	8	\$965
	5	\$845
	4	\$845
	3	\$810
	2	\$555

Latham & Watkins

2016 Rates:	Average Partner	\$1,185.83
	Highest Partner	\$1,595
	Lowest Partner	\$915
	Average Associate	\$754.62
	Highest Associate	\$1,205
	Lowest Associate	\$395

Lieff Cabraser Heimann & Bernstein, LLP

2015 Rates:	Year of Bar Admission	Rates
	1972	\$975
	1989	\$850
	2001	\$625
	2006	\$435
	2009	\$435
2014 Rates:	Year of Bar Admission	Rates
	1998	\$825
	2001	\$600
	2006	\$435
	2009	\$415
	2013	\$325
	Paralegal/Clerk	\$305
2013 Rates:	Year of Bar Admission	Rates
	1975	\$925
	1998	\$800
	2001	\$525
	2003	\$490
	2006	\$415
	2009	\$395

	2013	\$320
	Paralegal/Clerk	\$285

Michelman & Robinson LLP

2018 Rates:	Bar Admission Date	Rates
	Partners	\$995
	Senior Associate	\$580
	Associate	\$480

Milbank, Tweed, Handley & McCloy LLP

2016 Rates:	Bar Admission Date	Rates
	1983	\$1,025
	1984	\$1,350
	1992	\$1,350
	2002 (associate)	\$915

Morrison Foerster LLP

2018 Rates:	Years of Practice	Rates
	40	\$1,050
	22	\$950
	11	\$875
	3	\$550
	Paralegal	\$325
2017 Rates:	Bar Admission Date:	Rates
	2007	\$608
	2012	\$575
2016 Rates:	Bar Admission Date	Rates
	1975	\$1,025
	1999	\$975
	1993	\$975
2013 Rates:	Level	Rates
	Average Partner	\$865
	Highest Partner	\$1,195
	Lowest Partner	\$595
	Average Associate	\$525
	Highest Associate	\$725
	Lowest Associate	\$230

Munger, Tolls & Olson

2016 Rates (unless otherwise noted):	Bar Admittance or Law School Graduation	Rates
Partners:	1966	\$1,000 (2015); 1,245 (2016)
	1977	\$1,110 (2015)
	1981	\$910

	1985	\$995
	1992	\$875-885
	1995	\$910
	2002	\$750
Of Counsel:	1976	\$705
Associates:	2009	\$615 (2015); \$660 (2016)
Non-Attorneys Timekeepers:		\$380-90

O'Melveny & Myers

2019 Rates:	Level	Rate
	Senior Partner	\$1,250
	Partner (1998 Bar Admittee)	\$1,050
	3 rd Year Associate	\$640
	2 nd Year Associate	\$565
2016 Rates:	Bar Admission Date	Rates
	1985	\$1,175
	2004	\$895
	2005	\$780
	2007	\$775
	2010	\$725
	2011	\$700
	2012	\$655
	2013	\$585
	2014	\$515
	2015	\$435
2013 Rates:	Level	Rates
	Average Partner	\$715
	Highest Partner	\$950
	Lowest Partner	\$615

Orrick Herrington & Sutcliffe

2014 Rates:	Level	Rates
	Average Partner	\$845
	Highest Partner	\$1,095
	Lowest Partner	\$715
	Average Associate	\$560
	Highest Associate	\$710
	Lowest Associate	\$375

Paul Hastings LLP

2016 Rates:	Bar Admission Date	Rates
	1973	\$1,175
	1997	\$895
	1990	\$750
2014 Rates:	Level	Rates

	Average Partner	\$815
	Highest Partner	\$900
	Lowest Partner	\$750
	Average Associate	\$540
	Highest Associate	\$755
	Lowest Associate	\$350

Pearson Simon & Warshaw LLP

2019 Rates:	Years of Experience	Rates
	23-38	\$1,150
	10	\$900
	Of Counsel	\$825
	6	\$500
	4	\$450
	Paralegals	\$225
2018 Rates:		
	22-37	\$1,050
	9	\$650
	Of Counsel	\$725
	5	\$450
	3	\$400
2017 Rates:	35-36	\$1,035
	8	\$520
	4	\$400
	2	\$350

Proskauer Rose LLP

2016 Rates:	Bar Admission Date	Rates
	1974	\$1,475
	1983	\$1,025
	1979	\$950
	2007	\$850
	2013	\$495
	2015	\$440-445

Quinn Emanuel Urquhart & Sullivan

2013 Rates:	Level	Rates
	Average Partner	\$915
	Highest Partner	\$1,075
	Lowest Partner	\$810
	Average Associate	\$410
	Highest Associate	\$675
	Lowest Associate	\$320

Reed Smith LLP

2014 Rates:	Years of Experience	Rates
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	37	\$830
	18	\$695
	15	\$585
	6	\$485
	5	\$435
2013 Rates:	Years of Experience	Rates
	Partner	
	36	\$830
	30	\$805
	17	\$610-615
	14	\$570
	Associates	
	8	\$450-535
	6	\$495

Ropes & Gray

2016 Rates:	Level	Rates
	Partner	\$880-1,450
	Counsel	\$605-1,425
	Associate	\$460-1050
	Paralegals	\$160-415

Skadden, Arps, Slate, Meagher & Flom

2013 Rates:	Level	Rates
	Average Partner	\$1,035
	Highest Partner	\$1,150
	Lowest Partner	\$845
	Average Associate	\$620
	Highest Associate	\$845
	Lowest Associate	\$340

Wilson Sonsini Goodrich & Rosati PC

2017 Rates:	Bar Admission Date	Rates
	2000	\$950

Winston & Strawn		
2019 Rates:		Rates
	Partners:	
		\$1,515
		\$1,245
		\$1,105
		\$1,025
	Associates:	
		\$825
		\$660
		\$615
2018 Rates:		

	Partners:	
		\$1,445
		\$1,185
		\$1,050
		\$820
	Associates:	
		\$765
		\$585
	Paralegals:	\$170-340
	Litigation Support Mgr.	\$275
	Review Attorneys	\$85
2017 Rates:		
	Partners:	
		\$1,365
		\$1,120
		\$990
	Associates:	
		\$760
		\$690
		\$645
		\$520
		\$495
	Paralegals:	\$165-295
2016 Rates:		
	Partners:	
		\$1,290
		\$1,095
		\$965
		\$960
		\$885
	Associates:	
		\$715
		\$615
		\$575
		\$470
	Paralegals:	\$170-280
	Litigation Support Mgr.:	\$250
2015 Rates:		
	Partners:	\$1,225
		\$1,000
		\$910
		\$820
	Associates:	\$680
		\$555
		\$515
		\$480
		\$450
	Review Attorneys:	\$85-95
	Paralegals:	\$90-265
	Litigation Support Mgr.	\$250

1 18. The hourly rates set forth above are those charged where full payment
2 is expected promptly upon the rendition of the billing and without consideration of
3 factors other than hours and rates. If any substantial part of the payment were to be
4 contingent or deferred for any substantial period of time, for example, the fee
5 arrangement would be adjusted accordingly to compensate the attorneys for those
6 factors.

7 19. I am quite familiar with civil rights litigation, having been involved in
8 numerous attorney fee applications in such cases, both as an advocate and an expert.
9 As such, I am aware, as I stated in paragraph 12, of the reputation and experience of
10 Mr. Litt for handling complex civil rights litigation, including complex civil rights
11 class actions. There is little question that he is considered among the top civil rights
12 practioners in California or that the civil rights class actions of the type that he
13 handles qualify as complex litigation. *See, e.g., City of Riverside v. Rivera*, 477 U.S.
14 561, 575-576, 106 S.Ct. 2686 (1986) (“Congress intended civil rights fees to be
15 comparable to that for ‘other types of equally complex Federal litigation, such as
16 antitrust cases’”). This reputation is borne out by the exceptional results in this case.
17 It is very rare in my experience to see a civil rights class action, particularly against
18 a government entity, resolve for several tens of millions of dollars, as is the case
19 here. Also, in my experience, class actions are considered to be among the most
20 complex types of litigation.

21 18. In my experience, fee awards are almost always determined based on
22 current rates, *i.e.*, the attorney’s rate at the time a motion for fees is made, rather
23 than the historical rate at the same time the work was performed. This is a common
24 and accepted practice to compensate attorneys for the delay in being paid. *See, e.g.,*
25 *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 453 (9th Cir. 2010); *Graham*
26 *v. DaimlerChrysler, Inc.* 34 Cal.4th 553, 583 (2004); *Robles v. Emp. Dev. Dept.*, 38
Cal.App.5th 191, 205 (2019).

27 19. I understand that the fee sought here is a percentage of the fund, and that
28

1 the rate information addressed here is for purposes of a lodestar cross-check, and
2 that, if the requested percentage is granted, this would result in a multiplier in the
3 range of 3.0. This is irrelevant to the rate information I presented above, as the rates
4 I have listed are not based on enhancements for contingency, but rather are non-
5 contingent rates or rates that, although determined in a contingent fee case, are not
6 based on including a contingency enhancement but reflect judicial determinations of
7 reasonable non-contingent rates. In the course of my work, I am also familiar with
8 percentage of the fund awards and have seen numerous class action fee awards that
9 have resulted in comparable and higher multipliers. Similarly, I have seen numerous
10 class percentage of the fund awards in the 30%-33% range.

11 I declare under penalty of perjury under the laws of the United States that the
12 foregoing facts are true and correct.

13 Executed on January 31, 2020 at Berkeley, California.

14 
15 Richard M. Pearl

EXHIBIT C

Exhibit A
PEARL DECL.

RESUME OF RICHARD M. PEARL

RICHARD M. PEARL
LAW OFFICES OF RICHARD M. PEARL
1816 Fifth Street
Berkeley, CA 94710
(510) 649-0810
(510) 548-3143 (facsimile)
rpearl@interx.net (e-mail)

EDUCATION

University of California, Berkeley, B.A., Economics (June 1966)
Boalt Hall School of Law, Berkeley, J.D. (June 1969)

BAR MEMBERSHIP

Member, State Bar of California (admitted February 1970)
Member, State Bar of Georgia (admitted June 1970) (inactive)
Admitted to practice before all California State Courts; the United States Supreme Court; the United States Court of Appeals for the District of Columbia and Ninth Circuits; the United States District Courts for the Northern, Central, Eastern, and Southern Districts of California, for the District of Arizona, and for the Northern District of Georgia; and the Georgia Civil and Superior Courts and Court of Appeals.

EMPLOYMENT

LAW OFFICES OF RICHARD M. PEARL (April 1987 to Present): Civil litigation practice (AV rating), with emphasis on court-awarded attorney's fees, class actions, and appellate practice. Selected Northern California "Super Lawyer" in Appellate Law for 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and 2019.

QUALIFIED APPELLATE MEDIATOR, APPELLATE MEDIATION PROGRAM, California Court of Appeal, First Appellate District (October 2000 to 2013) (program terminated).

ADJUNCT PROFESSOR, HASTINGS COLLEGE OF THE LAW (January 1988 to 2014): Taught *Public Interest Law Practice*, a 2-unit course that focused on the history, strategies, and issues involved in the practice of public interest law.

PEARL, McNEILL & GILLESPIE, Partner (May 1982 to March 1987): General civil litigation practice, as described above.

CALIFORNIA RURAL LEGAL ASSISTANCE, INC. (July 1971 to September 1983) (part-time May 1982 to September 1983):

Director of Litigation (July 1977 to July 1982)

Responsibilities: Oversaw and supervised litigation of more than 50 attorneys in CRLA's 15 field offices; administered and supervised staff of 4-6 Regional Counsel; promulgated litigation policies and procedures for program; participated in complex civil litigation.

Regional Counsel (July 1982 to September 1983 part-time)

Responsibilities: Served as co-counsel to CRLA field attorneys on complex projects; provided technical assistance and training to CRLA field offices; oversaw CRLA attorney's fee cases; served as counsel on major litigation.

Directing Attorney, Cooperative Legal Services Center (February 1974 to July 1977) (Staff Attorney February 1974 to October 1975)

Responsibilities: Served as co-counsel on major litigation with legal services attorneys in small legal services offices throughout California; supervised and administered staff of four senior legal services attorneys and support staff.

Directing Attorney, CRLA McFarland Office (July 1971 to February 1974) (Staff Attorney July 1971 to February 1972)

Responsibilities: Provided legal representation to low income persons and groups in Kern, King, and Tulare Counties; supervised all litigation and administered staff of ten.

HASTINGS COLLEGE OF THE LAW, Instructor, Legal Writing and Research Program (August 1974 to June 1978)

Responsibilities: Instructed 20 to 25 first year students in legal writing and research.

CALIFORNIA AGRICULTURAL LABOR RELATIONS BOARD, Staff Attorney, General Counsel's Office (November 1975 to January 1976, while on leave from CRLA)

Responsibilities: Prosecuted unfair labor practice charges before Administrative Law Judges and the A.L.R.B. and represented the A.L.R.B. in state court proceedings.

ATLANTA LEGAL AID SOCIETY, Staff Attorney (October 1969 to June 1971)

Responsibilities: Represented low-income persons and groups as part of 36-lawyer legal services program located in Atlanta, Georgia.

PUBLICATIONS

Pearl, *California Attorney Fee Awards, Third Edition* (Cal. Cont. Ed. Bar 2010) and February 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, and March 2019 Supplements

Pearl, *California Attorney Fee Awards, Second Edition* (Cal. Cont. Ed. Bar 1994), and 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, and 2008 Supplements

Graham v. DaimlerChrysler Corp. and *Tipton-Whittingham v. City of Los Angeles*, Civil Litigation Reporter (Cal. Cont. Ed. Bar Feb. 2005)

Current Issues in Attorneys' Fee Litigation, California Labor and Employment Law Quarterly (September 2002 and November 2002)

Flannery v. Prentice: Shifting Attitudes Toward Fee Agreements and Fee-Shifting Statutes, Civil Litigation Reporter (Cal. Cont. Ed. Bar Nov. 2001)

A Practical Introduction to Attorney's Fees, Environmental Law News (Summer 1995)

Wrongful Employment Termination Practice, Second Edition (Cal. Cont. Ed. Bar 1997) (co-authored chapter on "Attorney Fees")

California Attorney's Fees Award Practice (Cal. Cont. Ed. Bar 1982) (edited), and 1984 through 1993 Supplements

Program materials on attorney fees, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations in Determining, Billing, and Collecting (October 1992)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Effective Representation Before California Administrative Agencies (October 1986)

Program materials on Attorney's Fees in Administrative Proceedings: California Continuing Education of the Bar, prepared as panelist for CEB program on Attorneys' Fees: Practical and Ethical Considerations (March 1984)

Settlers Beware/The Dangers of Negotiating Statutory Fee Cases (September 1985) Los Angeles Lawyer

Program Materials on Remedies Training (Class Actions), sponsored by Legal Services Section, California State Bar, San Francisco (May 1983)

Attorneys' Fees: A Legal Services Practice Manual (Legal Services Corporation 1981)

PUBLIC SERVICE

Member, Attorneys' Fee Task Force, California State Bar

Member, Board of Directors, California Rural Legal Assistance Foundation

REPRESENTATIVE CASES

ACLU of N. Cal. v. DEA

(N.D. Cal. 2012) 2012 U.S.Dist.LEXIS 190389

Alcoser v. Thomas

(2011) 2011 Cal.App.Unpub.LEXIS 1180

Arias v. Raimondo

(2018) 2018 U.S.App.LEXIS 7484

Boren v. California Department of Employment

(1976) 59 Cal.App.3d 250

Cabrera v. Martin

(9th Cir. 1992) 973 F.2d 735

Camacho v. Bridgeport Financial, Inc.

(9th Cir. 2008) 523 F.3d 973

Campos v. E.D.D.

(1982) 132 Cal.App.3d 961

Center for Biological Diversity v. County of San Bernardino

(2010) 185 Cal.App.4th 866

Children & Families Commission of Fresno v. Brown

(2014) 228 Cal.App.4th 45

Committee to Defend Reproductive Rights v. A Free Pregnancy Center

(1991) 229 Cal.App.3d 633

David C. v. Leavitt

(D. Utah 1995) 900 F.Supp. 1547

Delaney v. Baker

(1999) 10 Cal.4th 23

REPRESENTATIVE CASES (cont.)

Dixon v. City of Oakland

(2014) 2014 U.S.Dist.LEXIS 169688

Employment Development Dept. v. Superior Court (Boren)

(1981) 30 Cal.3d 256

Environmental Protection Info. Ctr. v Department of Forestry & Fire Protection

(2010) 190 Cal.App.4th 217

Environmental Protection Information Center, Inc. v. Pacific Lumber Co.

(N.D. Cal. 2002) 229 F. Supp.2d 993, *aff'd* (9th Cir. 2004) 103 Fed. Appx. 627

Flannery v Prentice

(2001) 26 Cal. 4th 572

Guerrero v. Cal. Dept. of Corrections etc.

(2016) 2016 U.S.Dist.LEXIS 78796, *aff'd in relevant part*, (9th Cir. 2017) 701
Fed.Appx. 613

Graham v. DaimlerChrysler Corp.

(2004) 34 Cal. 4th 553

Heron Bay Home Owners Assn. v. City of San Leandro

(2018) 19 Cal.App.5th 376

Horsford v. Board of Trustees of Univ. of Calif.

(2005) 132 Cal.App.4th 359

Ketchum v. Moses

(2001) 24 Cal.4th 1122

Kievlan v. Dahlberg Electronics

(1978) 78 Cal.App.3d 951, *cert. denied* (1979)
440 U.S. 951

Lealao v. Beneficial California, Inc.

(2000) 82 Cal.App.4th 19

Lewis v. California Unemployment Insurance Appeals Board

(1976) 56 Cal.App.3d 729

REPRESENTATIVE CASES (cont.)

Local 3-98 etc. v. Donovan

(N.D. Cal. 1984) 580 F.Supp. 714,
aff'd (9th Cir. 1986) 792 F.2d 762

Mangold v. California Public Utilities Commission

(9th Cir. 1995) 67 F.3d 1470

Maria P. v. Riles

(1987) 43 Cal.3d 1281

Martinez v. Dunlop

(N.D. Cal. 1976) 411 F.Supp. 5,
aff'd (9th Cir. 1977) 573 F.2d 555

McQueen, Conservatorship of

(2014) 59 Cal.4th 602 (argued for *amici curiae*)

McSomebodies v. Burlingame Elementary School Dist.

(9th Cir. 1990) 897 F.2d 974

McSomebodies v. San Mateo City School Dist.

(9th Cir. 1990) 897 F.2d 975

Molina v. Lexmark International

(2013) 2013 Cal.App. Unpub. LEXIS 6684

Moore v. Bank of America

(9th Cir. 2007) 2007 U.S. App. LEXIS 19597

Moore v. Bank of America

(S.D. Cal. 2008) 2008 U.S. Dist. LEXIS 904

Mora v. Chem-Tronics, Inc.

(S.D. Cal. 1999) 1999 U.S. Dist. LEXIS 10752,
5 Wage & Hour Cas. 2d (BNA) 1122

Nadaf-Rahrov v. Nieman Marcus Group

(2014) 2014 Cal.App. Unpub. LEXIS 6975

Orr v. Brame

(9th Cir. 2018) 727 Fed.Appx. 265, 2018 U.S.App.LEXIS 6094

REPRESENTATIVE CASES (cont.)

Orr v. Brame

(9th Cir. 2019) 2019 U.S.App.LEXIS 24531

Pena v. Superior Court of Kern County

(1975) 50 Cal.App.3d 694

Ponce v. Tulare County Housing Authority

(E.D. Cal 1975) 389 F.Supp. 635

Ramirez v. Runyon

(N.D. Cal. 1999) 1999 U.S. Dist. LEXIS 20544

Robles v. Employment Dev. Dept.

(2019) 38 Cal.App.5th 191

Rubio v. Superior Court

(1979) 24 Cal.3d 93 (amicus)

Ruelas v. Harper

(2015) 2015 Cal.App. Unpub.LEXIS 7922

Sokolow v. County of San Mateo

(1989) 213 Cal. App. 3d. 231

S.P. Growers v. Rodriguez

(1976) 17 Cal.3d 719 (amicus)

Swan v. Tesconi

(2015) 2015 Cal.App. Unpub. LEXIS 3891

Tongol v. Usery

(9th Cir. 1979) 601 F.2d 1091,
on remand (N.D. Cal. 1983) 575 F.Supp. 409,
revs'd (9th Cir. 1985) 762 F.2d 727

Tripp v. Swoap

(1976) 17 Cal.3d 671 (amicus)

REPRESENTATIVE CASES (cont.)

United States (Davis) v. City and County of San Francisco
(N.D. Cal. 1990) 748 F.Supp. 1416, *aff'd in part*
and revs'd in part sub nom Davis v. City and County
of San Francisco (9th Cir. 1992) 976 F.2d 1536,
modified on rehearing (9th Cir. 1993) 984 F.2d 345

United States v. City of San Diego
(S.D.Cal. 1998) 18 F.Supp.2d 1090

Vasquez v. State of California
(2008) 45 Cal.4th 243 (*amicus*)

Velez v. Wynne
(9th Cir. 2007) 2007 U.S. App. LEXIS 2194

JANUARY 2020

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

RAY WEBB,

Plaintiffs,

v.

OFFICER J. ACKERMAN, et al.,

Defendants.

No. CV 13-9112-PLA

**ORDER RE MOTION FOR ATTORNEYS'
FEES AND COSTS**

On May 2, 2017, following a jury trial, a verdict in this civil rights action was returned in favor of plaintiff and against the four named individual defendants. The jury concluded that each of the defendants had violated plaintiff's Fourth Amendment rights by using excessive force against him, and that punitive damages against the defendants were justified. The jury awarded a total of \$620,000 to plaintiff (\$500,000 for past general damages, \$100,000 for future general damages, and \$20,000 in punitive damages). Plaintiff has now filed a Motion for Attorneys' Fees and Costs (the "Motion"), in which he seeks attorneys' fees pursuant to Fed.R.Civ.P. 54(d) and 42 U.S.C. § 1988 in the sum of \$448,760, as well as paralegal fees of \$11,300, costs of \$4,092.15, and additional fees of \$3,185 for work performed in connection with the Motion. Defendants filed an Opposition to the Motion, and plaintiff then filed a Reply. The Court has reviewed the documents submitted by the parties in connection with the Motion, and has considered the statements and arguments presented by counsel at the hearing on January 3, 2018.

1 There is no dispute that plaintiff is considered the prevailing party in this action under §
2 1988. Hensley v. Eckerhart, 461 U.S. 424, 433 (1983); see Opposition at 4 (“Plaintiffs’ [sic] claim
3 of attorneys’ fees is authorized by Section 1988. This section permits this Court to ‘allow the
4 prevailing party . . . a reasonable attorney’s fee as part of the costs.’ . . . Defendants oppose the
5 fee motion *not because it disputes that counsel is entitled to fair compensation for their efforts*, but
6 because the demand is unreasonable, and beyond what is fair”) (emphasis added). “The purpose
7 of § 1988 is to ensure ‘effective access to the judicial process’ for persons with civil rights
8 grievances. Accordingly, a prevailing plaintiff ‘should ordinarily recover an attorney’s fee unless
9 special circumstances would render such an award unjust.’” Hensley, 461 U.S. at 429 (citations
10 omitted). The applicant bears the burden of showing an entitlement to an award and of
11 documenting the hours expended and hourly rates (id. at 437); the opposing party then “has a
12 burden of rebuttal that requires submission of evidence to the district court challenging the
13 accuracy and reasonableness of the hours charged or the facts asserted by the prevailing party
14 in its submitted affidavits.” Gates v. Gomez, 60 F.3d 525, 534-35 (9th Cir. 1995). The question
15 presented in the Motion is whether the requested amounts are reasonable under the statute.
16 Plaintiff contends that he is entitled to the requested fees, based on the nature of the case, the
17 experience of counsel, the work involved, and the outcome of the trial. Defendants disagree,
18 generally arguing that counsel’s billing statements are too vague, and reflect overhead activities,
19 inefficient work and duplication of effort, but mainly contending that the hourly rates sought are
20 excessive.

21 The Court examines the “lodestar” in determining whether the requested fees are
22 reasonable. The lodestar is obtained, first, by multiplying the number of hours reasonably
23 expended on the litigation by a reasonable hourly rate. Hensley, 461 U.S. at 433-34. Those hours
24 that were not reasonably expended (such as when a case is overstaffed, or based on varying skills
25 of the lawyers involved, or that are excessive or redundant) should be excluded. Id. A reasonable
26 hourly rate under § 1988 is determined “according to the prevailing market rates in the relevant
27 community, regardless of whether plaintiff is represented by private or nonprofit counsel.” Blum
28 v. Stenson, 465 U.S. 886, 895 (1984).

1 The factors that may be considered in reaching a lodestar value and possible adjustment
2 are: (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the
3 skill requisite to perform the legal service properly; (4) the preclusion of other employment by the
4 attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or
5 contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved
6 and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the
7 undesirability of the case; (11) the nature and length of the professional relationship with the client;
8 and (12) awards in similar cases. Hensley, 461 U.S. at 430 n.3.

9 Here, plaintiff seeks an award of fees of \$448,760 based on the work of attorney Tiomkin.
10 He asserts that as of the filing of the Motion, Mr. Tiomkin had spent 690.4 hours working on this
11 case, and that a reasonable hourly rate is \$650. In support of these numbers, plaintiff has
12 submitted a declaration from counsel setting forth his legal experience, as well as his time records
13 from this case. In sum, Mr. Tiomkin spent a couple of years as a county public defender; since
14 2008, he has managed his own firm and has specialized in criminal defense, personal injury and
15 wrongful death cases; has tried over 50 cases to verdict; has litigated cases involving police
16 misconduct and violations of constitutional rights; and has represented many victims of misconduct
17 by law enforcement. While the precise nature of Mr. Tiomkin's experience in handling section
18 1983 cases and taking such actions to trial is not at all clear from his declaration, he asserts that
19 prosecuting such cases "was a natural transition for him" in light of his background (Motion, at 6).
20 At the hearing, he represented that he had handled just one civil rights action prior to the instant
21 matter, and that action settled before trial. Mr. Tiomkin also submitted declarations from attorneys
22 not associated with this case setting forth their opinions as to the prevailing hourly rates for
23 attorneys with similar experience and skills as Mr. Tiomkin, and the reasonableness of the hourly
24 amounts sought by Mr. Tiomkin. A declaration also represents that the rate of \$200 per hour
25 being sought for the paralegal's time in this action is reasonable, based on the paralegal's level
26 of experience.¹

27
28 ¹ The paralegal spent 56.5 hours in connection with this litigation which, at a rate of \$200
per hour, amounts to \$11,300. Counsel spent 4.9 hours preparing plaintiff's Reply to the

1 In opposition, defendants argue that the requested fees are not reasonable, based on
2 counsel's level of experience and the prevailing fees in the Central District, and as this matter was
3 "relatively straight-forward." Defendants submit that the amount sought would result in an
4 unjustified windfall, and a real person in the real world would not pay an attorney the sought-after
5 hourly amount for the type of work here. Defendants also contend that the billing statements are
6 too vague to support the claimed hours. In particular, defendants note that Mr. Tiomkin has not
7 indicated his hourly rate for private clients in criminal cases, or any other sort of compensation he
8 receives for other attorney work. They argue that what is reasonable must be examined in light
9 of what "a reasonable purchaser of the services would actually pay in a competitive market place,"
10 and must reflect the reality that a prevailing attorney has a financial incentive to charge as much
11 as he possibly can. Indeed, according to defendants, those who provided declarations in support
12 of the Motion attesting to the reasonableness of the rates being sought would themselves benefit
13 in their own cases from a high fee award in this case. Further, the Long Beach City Attorney's
14 Office, when it hires outside counsel in civil rights cases, pays less than \$300 per hour including
15 for cases that proceed to trial. Counsel thus suggests that a reasonable rate for Mr. Tiomkin,
16 based on his experience, would be \$425 per hour at most. Counsel further suggests that the
17 number of hours expended was not reasonable, and that duplicative, unreasonable, unnecessary
18 or unjustified hours should be reduced. Defendants in their pleadings do not question any specific
19 entry of time spent on any task, or any task itself, but instead insist that counsel is seeking
20 compensation "for hours not reasonably expended in the prosecution of this action; just as a
21 private client should not have to pay for overhead activities, inefficient work resulting in excessive
22 billing, duplication of effort, and the like, neither should the defendants." At the hearing, counsel
23 provided examples from Mr. Tiomkin's time sheets of research Mr. Tiomkin engaged in that,
24 according to defense counsel, an experienced civil rights litigator would not have needed to
25 perform.

26
27
28 Opposition to the Motion and attending the hearing, which amounts to \$3,185 at a rate of \$650 per hour.

1 The Court must determine a reasonable hourly rate after “considering the experience, skill
2 and reputation of the attorney requesting fees,” guided by the rate “prevailing in the community
3 for similar work performed by attorneys of comparable skill, experience, and reputation.” Trevino
4 v. Gates, 99 F.3d 911, 924 (9th Cir. 1996) (citation omitted). After considering the pleadings of
5 the parties and declarations filed in support of their positions, and the statements and arguments
6 of counsel, the Court accepts Mr. Tiomkin’s requested rate as falling within the prevailing market
7 rate. Here, plaintiff has submitted evidence that the rate sought by Mr. Tiomkin is appropriate for
8 attorneys of comparable skill, experience, and reputation. Mr. Beck, who has substantial
9 experience in civil rights litigation going back almost 40 years, confirms that Mr. Tiomkin has
10 “substantial trial experience in his 11 years in practice”; and, based on his own detailed experience
11 in fee awards and “awareness of fee awards in the Central District,” he believes that the market
12 rate in Los Angeles for attorneys in private practice such as Mr. Tiomkin warrants \$700 per hour.
13 Ms. Sobel, who has practiced law for close to 40 years, including 20 years primarily practicing in
14 the area of complex civil rights litigation, and who has made it a practice of surveying firms to
15 obtain relevant billing rates for comparison purposes, states her understanding that Mr. Tiomkin
16 has limited experience in civil litigation, but has extensive trial experience as a criminal defense
17 lawyer. She believes that \$650 per hour is within the range of reasonable rates in the Los Angeles
18 legal market for an attorney of his skill and experience. She also opines that \$200 per hour for
19 paralegal work is reasonable based on the paralegal’s level of experience and the range of rates
20 approved for paralegals of comparable skills and experience. When Mr. Tiomkin’s declaration is
21 added to the declarations of outside attorneys attesting to the propriety of the requested rates, the
22 Court will not deviate from that rate as to Mr. Tiomkin. Neither does the Court find convincing
23 defendants’ argument that the rate should be considered in light of the hourly rate charged by law
24 firms retained by the City of Long Beach to defend such cases. Those firms are guaranteed
25 payment regardless of the outcome of the case, and may be incentivized to charge a lower rate
26 to ensure repeat business. See, e.g., Trevino, 99 F.3d at 925 (“[p]rivate attorneys hired by a
27 government entity to defend excessive force cases are not in the same legal market as private
28 plaintiff’s attorneys who litigate civil right cases.”).

1 Having reviewed all of the time entries of counsel, who is a sole practitioner and thus
2 performed all of the attorney work on this case, the Court rejects defendants' assertions that Mr.
3 Tiomkin's judgment as to the time he needed to prepare for what turned out to be a very
4 successful trial for plaintiff should be questioned. The Court has not been presented with any
5 sound rationale to question his under oath declarations. Defense counsel has not convinced the
6 Court that the hours spent by counsel on the various tasks are much beyond what a reasonable
7 attorney would claim. Further, many hours are claimed based on time spent by counsel reviewing
8 depositions, statements and reports, and meeting with experts and preparing for expert testimony.
9 The Court observed at trial that much of plaintiff's case was based on a careful review and
10 understanding of prior statements made by defendants, both immediately following the incident
11 and at deposition. This review necessarily required many hours to compare, contrast, index and
12 reference those statements. The Court also observed the importance of expert testimony at trial,
13 and the need for a thorough comprehension and understandable presentation of expert opinions.
14 The requested hours are not excessive. The Court also notes that in a contingency fee
15 arrangement, "lawyers are not likely to spend unnecessary time . . . in the hope of inflating their
16 fees. The payoff is too uncertain, as to both the result and the amount of the fee. It would
17 therefore be the highly atypical civil rights case where plaintiff's lawyer engages in churning."
18 Moreno v. City of Sacramento, 534 F.3d 1106, 1112 (9th Cir. 2008).

19 Nevertheless, the Court observes that at the time he started working on this case, Mr.
20 Tiomkin had almost no experience in the area of civil rights litigation, having handled only one
21 other such case prior to his efforts here. His work on this case, including researching and
22 preparing motions and preparing for trial, was with the eye and level of familiarity of an attorney
23 who was new to this field. Indeed, he had not **tried** any federal civil rights cases prior to this one.
24 While Mr. Tiomkin's general trial experience may balance out his inexperience in civil rights
25 matters to some degree, that trial experience was not particular to the issues specific to this area
26 of law. Common sense dictates that an attorney with next to no experience in civil rights litigation,
27 and with no civil rights trial experience, would spend more time preparing a case than would an
28 attorney with years of civil rights experience when faced with the same case. Based on these

1 specific reasons and in the exercise of the Court's discretion, the Court finds it appropriate to cut
2 the requested number of hours by 15%, to 586.84 hours. Moreno, 534 F.3d at 1112 ("the district
3 court can impose a small reduction, no greater than 10 percent -- a 'haircut' -- based on its
4 exercise of discretion *and without a more specific explanation.*") (emphasis added). The same
5 rationale does not apply to the amount of time sought for paralegal assistance, however. Counsel
6 at the hearing represented that Ms. Campros has experience in the area of civil rights litigation.
7 The Court finds no reason to reduce her time or hourly rate.

8 The fees and expenses being sought by plaintiff consist of the filing fee, deposition costs,
9 mediation costs, and witness fees (\$40 per day plus mileage). Defendants do not seriously
10 contest the amount of fees and costs being sought here.

11 In sum, taking into account the 15% adjustment in the number of hours spent by Mr.
12 Tiomkin in this action, the Court awards attorneys' fees based on the Motion as follows: 690.4
13 hours, plus 4.9 hours for litigation of the Motion (for a total of 695.3 hours), less a 15% reduction
14 (for a total of 591.005 hours), all at \$650 per hour, **for an award on the Motion of \$384,153.25**.
15 The Court concludes that the **total award on the Motion** is appropriate and does not amount to
16 a windfall to the attorney involved. The Court further awards \$11,300 for paralegal fees (56.5
17 hours at \$200 per hour). The Court further awards fees and expenses in the amount of \$4,092.15.

18 **IT IS SO ORDERED.**

19 

20 DATED: January 4, 2018

21 _____
22 PAUL L. ABRAMS
23 UNITED STATES MAGISTRATE JUDGE
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/02/17

DEPT. 12

HONORABLE BARBARA A. MEIERS

JUDGE

J. ALVAREZ

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

E. AVENA, C.A.

Deputy Sheriff

NONE

Reporter

BC651650

Plaintiff

Counsel

MANNING'S BEEF LLC ET AL

NO APPEARANCES

VS

Defendant

LOS ANGELES COW SAVE

Counsel

170.6-Malcolm H. Mackey(deft)

NATURE OF PROCEEDINGS:

RULING ON SUBMITTED MATTER

The Court having noted that no formal dismissal or other form of judgment, for example an Order Striking the Complaint, was previously issued in this case, in accord with its anti-SLAPP ruling of May 18, 2017 the Plaintiff's entire action is now ordered dismissed, the Complaint now being stricken, with attorney fees and costs awarded to the Defendant.

The Court, relying on the Judge's experience of over 30 years on the bench as well as prior experience as an attorney at law, case law, and the Judge's particular knowledge of the facts and proceedings of this case, finds that the employment of three "law firms" was not called for and led to a significant waste of time and attorney hours. Only one attorney with the appropriate experience should have been utilized. The Court finds in this case this would be the counsel charging \$675 per hour. All work reasonably necessary and called for in this case should have taken that attorney working alone no more than three and one half 40-hour work weeks. That being the case, the total fees awarded are \$94,500.

The Judgment of Dismissal rendered this date is to provide that Plaintiffs Manning's Beef, LLC and Manning Land Company, LLC are jointly to pay

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/02/17

DEPT. 12

HONORABLE BARBARA A. MEIERS

JUDGE

J. ALVAREZ

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

E. AVENA, C.A.

Deputy Sheriff

NONE

Reporter

BC651650

Plaintiff

Counsel

MANNING'S BEEF LLC ET AL

NO APPEARANCES

VS

Defendant

LOS ANGELES COW SAVE

Counsel

170.6-Malcolm H. Mackey(deft)

NATURE OF PROCEEDINGS:

Defendant Los Angeles Cow Save the sum of \$94,500
plus cost of _____ according to law.

Defendant is to prepare and submit a written
Judgment for the Court's signature by August 20, 2017.

Clerk to give notice.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the
above-entitled court, do hereby certify that I am
not a party to the cause herein, and that on this
date I served the Minute Order
upon each party or counsel named below by placing
the document for collection and mailing so as to
cause it to be deposited in the United States mail
at the courthouse in Los Angeles,
California, one copy of the original filed/entered
herein in a separate sealed envelope to each address
as shown below with the postage thereon fully prepaid,
in accordance with standard court practices.

Dated: August 4, 2017

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/02/17

DEPT. 12

HONORABLE BARBARA A. MEIERS

JUDGE

J. ALVAREZ

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

E. AVENA, C.A.

Deputy Sheriff

NONE

Reporter

BC651650

Plaintiff

Counsel

MANNING'S BEEF LLC ET AL

NO APPEARANCES

VS

Defendant

LOS ANGELES COW SAVE

Counsel

170.6-Malcolm H. Mackey(deft)

NATURE OF PROCEEDINGS:

Sherri R. Carter, Executive Officer/Clerk

By:


J. Alvarez

MCMILLION & HIRTENSTEINER, LLP
5776-D LINDERO CANYON ROAD, # 231
WESTLAKE VILLAGE, CA, 91362

ADVANCING LAW FOR ANIMALS
506 N. FRANCISCA AVE., # A
REDONDO BEACH, CA, 90277

MATTHEW STRUGAR, ATTORNEY AT LAW
3435 WILSHIRE BLVD., # 2910
LOS ANGELES, CA, 90010

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/02/17

DEPT. 12

HONORABLE BARBARA A. MEIERS

JUDGE

J. ALVAREZ

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

E. AVENA, C.A.

Deputy Sheriff

NONE

Reporter

BC651650

Plaintiff

Counsel

MANNING'S BEEF LLC ET AL

NO APPEARANCES

VS

Defendant

LOS ANGELES COW SAVE

Counsel

170.6-Malcolm H. Mackey(deft)

NATURE OF PROCEEDINGS:

ANIMAL LEGAL DEFENSE FUND

170 E. COTATI AVE.

COTATI, CA, 94931

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

JUDGE

R. NAVARRO

DEPUTY CLERK

HONORABLE
#7

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff
Counsel

Anthony Nguyen (X)
Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant
Counsel

Kathryn T. McGuigan (X)
Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANTS, THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, TO STRIKE PLAINTIFF'S MOTION TO
STRIKE PLAINTIFF'S MEMORANDUM OF COSTS, OR IN THE
ALTERNATIVE TAX COSTS;

MOTION OF PLAINTIFF, DR. LAUREN PINTER-BROWN, FOR AN
AWARD OF ATTORNEYS' FEES OF \$1,814,152.81;

The Court's tentative ruling is provided to all sides
via the Court's website.

The matters are called for hearing.

The Order Appointing Court Approved Reporter as
Official Reporter Pro Tempore is signed and filed
this date.

After oral argument, the Court's tentative ruling is
adopted as the Order of the Court as follows:

Case Number: BC624838 Hearing Date: August 03,
2018 Dept: 34

SUBJECT: Motion for attorney's fees; Motion to tax
costs

MOTION FOR ATTORNEY FEES

Page 1 of 57 DEPT. 34

MINUTES ENTERED
08/03/18
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

JUDGE

R. NAVARRO

DEPUTY CLERK

HONORABLE
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JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

Moving Party: Plaintiff Dr. Lauren Pinter-Brown

Resp. Party: Defendant The Regents of the University of California

The motion is GRANTED. Plaintiff is awarded attorney fees in the amount of \$1,814,152.81, as indicated in the spreadsheet below:

BACKGROUND:

Plaintiff commenced this action on 06/22/16 against defendant for: (1) gender discrimination; (2) gender harassment; (3) retaliation for complaints of discrimination and harassment based on gender; (4) age discrimination; (5) age harassment; (6) violation of Labor Code § 1102.5; (7) violation of the Equal Pay Act; (8) intentional infliction of emotional distress; and (9) defamation.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

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R. NAVARRO

DEPUTY CLERK

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ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff
Counsel

Anthony Nguyen (X)
Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant
Counsel

Kathryn T. McGuigan (X)
Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

On 02/15/18, the jury returned a verdict in plaintiff's favor on her gender discrimination and retaliation claims. The jury awarded plaintiff \$13,011,671.00.

ANALYSIS:

As the prevailing party on her FEHA claims, plaintiff moves for an award of attorney fees in the amount of \$1,814,152.81. (See Notice of Motion, p. 2:2-7.) This sum includes a lodestar figure of \$1,036,658.75 and a 1.75 multiplier. (Ibid.)

A.Relevant Law

"[A]s a general rule, attorney fees are not recoverable as costs unless they are authorized by statute or agreement." (People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424, 429.)

Attorney's fees may be recovered by a prevailing plaintiff in a FEHA action. (See Gov. Code, § 12965(b); Chavez v. City of Los Angeles

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

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Deputy Sheriff

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8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

(2010) 47 Cal.4th 970, 984.) Under the FEHA, a prevailing defendant may only recover fees upon a showing that the plaintiff's action was frivolous, unreasonable, or without foundation. (See Williams v. Chino Valley Independent Fire Dist. (2015) 61 Cal.4th 97, 103; Chavez v. City of Los Angeles (2010) 47 Cal.4th 970, 985; Cummings v. Benco Building Services (1992) 11 Cal.App.4th 1383, 1387-1388; Christiansburg Garment Co. v. EEOC (1978) 434 U.S. 412, 421.)

The trial court has broad authority to determine the amount of a reasonable fee. (PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1095; Ghanooni v. Super Shuttle of Los Angeles (1993) 20 Cal.App.4th 256, 262.) In determining the reasonable value of the attorney services, "the court does not need separate evidence to establish the reasonable value of whatever should be justly awarded, the theory being that the trial judge is competent from his own knowledge of legal practice to fix the amount of the fees. [Citations.]" (Spencer v. Harmon Enterprises (1965) 234 Cal.App.2d 614, 621 [internal citations omitted].)

The attorney bears the burden of proof as to "reasonableness" of any fee claim. (Code Civ. Proc., § 1033.5(c)(5).) This burden requires competent

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

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ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

evidence as to the nature and value of the services rendered. (Martino v. Denevi (1986) 182 Cal.App.3d 553, 559.) "Testimony of an attorney as to the number of hours worked on a particular case is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records." (Id. at p. 559.)

In determining whether the requested attorney's fees are "reasonable," the Court's

"first step involves the lodestar figure - a calculation based on the number of hours reasonably expended multiplied by the lawyer's hourly rate. The lodestar figure may then be adjusted, based on consideration of facts specific to the case, in order to fix the fee at the fair market value for the legal services provided." (Gorman v. Tassajara Development Corp. (2008) 162 Cal.App.4th 770, 774 [internal citations omitted].)

In determining whether to adjust the lodestar figure, the Court may consider the nature and difficulty of the litigation, the amount of money involved, the skill required and employed to handle the case, the attention given, the success or

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

JUDGE

R. NAVARRO

DEPUTY CLERK

HONORABLE
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JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

failure, and other circumstances in the case.
(EnPalm LLC v. Teitler (2008) 162 Cal.App.4th 770,
774; PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th
1084, 1095.)

"The reasonable market value of the attorney's
services is the measure of a reasonable hourly rate.
[Citations.] This standard applies regardless of
whether the attorneys claiming fees charge nothing
for their services, charge at below-market or
discounted rates, represent the client on a straight
contingent fee basis, or are in-house counsel.
[Citations.]' " (Center For Biological Diversity v.
County of San Bernardino (2010) 188 Cal.App.4th 603,
619.)

"The trial courts, of course, should be
allowed the discretion to exclude from a fee award
the fees incurred by a prevailing party in making
frivolous procedural maneuvers, the primary concern
in setting rules for attorney fee awards must be the
encouragement of efficient litigation." (Presley of
Southern California v. Whelan (1983) 146 Cal.App.3d
959, 963.)

A.Discussion

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MINUTES ENTERED
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COUNTY CLERK

EXHIBIT F

Pinter-Brown v. UCLA

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

JUDGE

R. NAVARRO

DEPUTY CLERK

HONORABLE
#7

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

Plaintiff seeks an award of attorney fees in the total amount of \$1,814,152.81. This sum includes a lodestar figure of \$1,036,658.75 representing 1,571.2 hours spent by her counsel in litigating this matter over the past two years. (See Notice of Motion, p. 2:2-7.) Plaintiff also seeks a 1.75 lodestar multiplier on the ground that such an enhancement "is necessary to fully compensate Pinter-Brown's counsel in accordance with the market value of their work." (Motion, p. 1:24-25.) Plaintiff has submitted detailed time records for each of the nine attorneys who worked on this matter. (See Appx. of Evid., Exhs. 1-9; See also, Motion, p. 12:8-19.)

Plaintiff argues that the relatively high amount of attorney fees is due, in large part, to defendant's aggressive tactics throughout the litigation and refusal to engage in any meaningful settlement negotiation:

"...this was an exceptionally difficult case, which necessitated extensive discovery, opposing an exhaustive but futile motion for summary judgment, and a multi-week hard-fought trial. Not once has defendant made a reasonable settlement offer, even

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

JUDGE

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ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff
Counsel

Anthony Nguyen (X)
Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant
Counsel

Kathryn T. McGuigan (X)
Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

after the jury delivered a \$13 million verdict."
(Motion, p. 1:4-6.)

By way of example, plaintiff explains that:

"this case involved voluminous discovery and extensive law and motion practice, evidenced by: 25 total depositions, over 7,600 pages of documents produced in discovery, approximately twenty sets of written discovery involving multiple defendants, defendant's futile but complex summary judgment motion, and a procedurally fatal and factually meritless motion for judgment notwithstanding the verdict (which Pinter-Brown was forced to oppose before the Court disposed of it)." (Id. at p. 2:17-21.)

Additionally, plaintiff argues that the case was particularly hard because counsel:

"faced an arduous task of proving that Dr. Pinter-Brown was subject to working conditions that were so intolerable that she had no reasonable alternative except to resign. . . . a 'constructive discharge' claim is difficult to prove because it

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

JUDGE

R. NAVARRO

DEPUTY CLERK

HONORABLE
#7

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

requires a level of showing that deal with both subjective and objective standards which are subject to great contention. (Id. at p. 3:5-8.)

In Opposition, defendant argues that the Court should exercise its discretion to deny fees entirely because the requested fees are excessive and "designed to test the limits of what the Court will approve by seeking compensation for excessive hours and proposing excessive hourly rates." (Opposition, p. 1:2-6.) In the event that the Court decides to award fees to plaintiff, defendant asserts that, after all mandatory deductions, plaintiff is entitled to only \$39,311.25 for the two years of work that resulted in a \$13 million jury verdict. (See Id. at p. 10:14-15.)

i. The hours expended were reasonable

As outlined above, plaintiff argues that her attorneys reasonably spent 1,571.2 hours working on this case over the last two years. According to plaintiff, this amount of work was necessitated by the complexity of the issues, the vast quantity of discovery and motion practice, and defendant's aggressive tactics. (See generally, Motion, p. 1-3.)

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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NATURE OF PROCEEDINGS:

Defendant argues that plaintiff has completely failed to show the reasonableness of the time expended by her counsel. (See Opposition, p. 2:23-6:11.) It argues that "the declarations and time records submitted by Plaintiffs' counsel in support of the Motion are neither trustworthy nor credible and fail to support or justify the hours listed and fees sought." (Id. at p. 3:8-10.) The Opposition cites to a number of specific time entries that defendant deems objectionable, and defendant has submitted a separate exhibit containing objections to more than half of the time entries submitted by plaintiff. (See McGuigan Decl. Exh. A.)

First, defendant argues that there are several time entries that are "demonstrably inaccurate." (Opposition, p. 3:18.) These entries include:

1.5 hours billed by Mark Lim on August 19, 2019 (i.e., one year from now), for 'preparation of motion in limine 6 and internal discussion regarding facts regarding same."

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ANGELES ET AL

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2.75 hours billed by Taylor French on January 2, 2018, to review 'nt Deposition; review of Hunt's r.'

0.25 hours billed by Taylor Prainito on June 1, 2027 (i.e., nine years from now) for a discussion with Plaintiff regarding deposition transcripts and Defendant's motion for summary judgment.

3.8 hours billed by Ms. Prainito on February 15, 2018, for purportedly reviewing (unspecified) discovery responses on the last day of trial.

0.1 hours billed by Ms. Prainito on April 17, 2018, for review of an unidentified deposition notice (2 months after trial ended.)

Defendant argues that these time entries must be excluded and that their existence "call[s] into question the evidentiary value of Plaintiff's counsel's time records as a whole." (Opposition, p. 4:4-5.)

Defendant has done little more than identify typos in plaintiff's billing records. Defendant apparently has the good sense not to explicitly

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NATURE OF PROCEEDINGS:

claim that plaintiff is improperly billing for fictional services provided nearly a decade in the future and merely implies it instead. In reply, plaintiff argues that "even when a trial court is faced with a 'plethora of flawed attorney time entries,' it is still impermissible 'to engage in an across-the-board reduction of hours.'" (Reply, p. 2:12-14 [quoting Mountjoy v. Bank of Am., N.A. (2016) 245 Cal.App.4th 266, 280].) With respect to the disputed entry on 01/02/18, plaintiff explains that it should read "Discussion regarding Hunt Deposition; Review of Hunt's report in preparation for deposition." (Reply, p. 2:20-21.) Furthermore, defendant provides no explanation or authority which would support the implicit claim that it would be improper for plaintiff's counsel to continue reviewing discovery at the trial or even to perform such work after the trial. It is curious that defendant objects to the 0.1 hours billed by Ms. Prainito on 04/17/18 as this was only one day before defendant filed its untimely motion for a new trial. Plaintiff accurately summarizes defendant's objections: "The typos identified by defendant are negligible, and defendant provides no authority that suggests it should receive a windfall due to five clerical errors in the time records." (Reply, p. 2:22-23.)

Next, defendant argues that hundreds of

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NATURE OF PROCEEDINGS:

plaintiff's time entries contain improper block billing and must be stricken. (See Opposition, p. 4:8-5:15; McGuigan Decl., Exh. A [containing "at least 272 time entries with improper block-billing and/or vague descriptions"].) Defendant cites three specific examples in its opposition:

13.1 hours billed by Anthony Nguyen on 2/7/2018 for 'Preparation for Trial and Trial Attendance; further edits to De Vos Outline; review of deposition transcript; review of Pinter-Brown trial testimony.'

4.9 hours billed by Ms. Prainito on 7/19/17 for "Review of deposition summaries; drafting of separate statement."

6.5 and 6.8 hours billed by Mr. Nguyen and Mr. Lim, respectively, on 2/15/18 for "Travel to Court and Trial Attendance; discussion with jurors; internal discussion regarding verdict and post-trial concerns."

(Opposition, p. 4:25-5:4.) Defendant finds each of these entries objectionable because they "combine[] multiple tasks without providing a break-down of the time spent on each task, which is particularly

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NATURE OF PROCEEDINGS:

problematic because they correspond (individually and in the aggregate) substantial amounts of attorney time and list tasks that are only vaguely described." (Id. at p. 5:5-8.)

Defendant's argument is not well taken. Block billing is only problematic "when the practice prevents them from discerning which tasks are compensable and which are not." (Heritage Pac. Fin. LLC v. Monroy (2013) 215 Cal.App.4th 972, 1010.) Defendant does not allege that any of the three entries cited above contain any non-compensable work. Furthermore, defendant has not cited any authority that suggests that plaintiff is required to provide any more detail than has already been provided. The billing entries identified by defendant are sufficiently descriptive and do not contain any problematic block billing.

"[C]onsistent precedent in California cases . . . provide[s] trial courts with the discretion about whether [or not] to penalize block billing." (Heritage Pacific Financial v. Monroy (2013) 215 Cal.App.4th 972, 1010, fn. 6. [italics in original; brackets added].)

Finally, defendant argues that the time

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NATURE OF PROCEEDINGS:

spent by plaintiff's counsel was excessive, inefficient, or duplicative and that hundreds of hours should be stricken as a result. (See Opposition, p. 5: 18-6:11.) Here, defendant cites to the following examples:

Up to 129.05 hours were billed by four different attorneys to prepare closing arguments . . . between February 6, 2018 and February 14, 2018.

Between January 29, 2018 and February 14, 2108, Messrs. Nguyen, Shegerian, and Lim billed a total of 321.65 hours for trial preparation (up to 15.9 hours in a single day). Some entries give only the description of 'preparation for trial and trial attendance' for several hours of work . . . while the remainder are block-billed entries that do not permit scrutiny into the work performed or the amount of time spend on each (listed and unlisted) task.

172 hours billed for various 'internal discussions' with multiple attorneys billing for discussions about simple issues such as "internal discussion regarding stipulation."

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UNIVERSITY OF CALIFORNIA AT LOS
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NATURE OF PROCEEDINGS:

(Opposition, 5:18-6:7)

Defendant is correct that the Ketchum court noted that "padding in the form of inefficient or duplicative efforts is not subject to compensation." (See Opposition, p. 6:9-11 [quoting Ketchum v. Moses (2001) 24 Cal.4th 1122, 1139.]) Here, however, defendant has done nothing more than identify the fact that plaintiff's counsel spent substantial time on various tasks. Defendant does not even claim that it would be unreasonable to spend 321 hours on trial preparation or 129.05 hours preparing closing arguments. The Court agrees that this is a large amount of time to spend preparing for closing; nonetheless, the Court remembers plaintiff's closing as concise, well-planned and to-the-point. And it was clearly effective; the jury returned the next day with a \$13 million verdict. With little planning, any attorney can present a rambling closing; it takes a lot of planning to be concise. As the 17th-century French philosopher and mathematician said, "Forgive me for writing such a long letter; I did not have the time to make it shorter." (Blaise Pascal, Lettres Provinciales, 1657.)

Defendant fails to cite any authority to suggest that it is improper for two or more attorneys to

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Counsel

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NATURE OF PROCEEDINGS:

bill for a discussion about issues related to the case. In short, defendant has failed to identify any "padding in the form of inefficient or duplicative efforts." In reply, plaintiff presents further persuasive explanation that shows that defendant has misrepresented the nature of the work performed by plaintiff's counsel. (See Reply, p. 5:3-6:3.)

As detailed above, defendant has failed to cite any meaningful example of a billing entry that was improper, impermissible vague, suggested problematic block billing, or evidenced any form of padding.

"A party cannot litigate tenaciously and then be heard to complain about the time necessarily spent by the plaintiff in response." (Serrano v. Unruh (1982) 32 Cal.3d 621, 638.)

Or, as stated by the Court of Appeal eight years later, "[p]arties who litigate with no holds barred in cases such as this, in which the prevailing party is entitled to a fee award, assume the risk they will have to reimburse the excessive expenses they force upon their adversaries." (Stokus v. Marsh (1990) 217 Cal.App.3d 647, 653-654.)

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EXHIBIT F

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8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

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DR LAUREN PINTER-BROWN

VS

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Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

The Court finds that plaintiff's counsel reasonably expended 1,571.2 hours litigating this case.

i. Hourly rates

Defendant also objects to the hourly rates requested by plaintiff's counsel. (See Opposition, p. 6:14-7:11.) Most significantly, defendant objects to Mr. Shegerian's request for an hourly rate of \$1,100. Defendant claims that this represents a 40% raise from the \$700 that he is usually awarded and that "[t]he apparent genesis for this appears to be an off-handed compliment paid by the court three years ago in an unrelated matter." (Id. at p. 6:15-17.) As recently as December 2017, defendant claims that courts have routinely declined to increase his hourly rate from \$700 per hour. (Id. at p. 6:20-22; McGuigan Decl., ¶ 3, Exs. B-E.)

Plaintiff declares that Mr. Shegerian's hourly rate of \$1,100 has been court approved by Judge Chavez in Moland v. McWane, Inc. as recently as December 2017. (See Shegerian Decl., ¶ 7; McGuigan Decl. Exh. E [the Court's order does not specify the hourly rate awarded to Mr. Shegerian,

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Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

but the "court hereby awards Plaintiff only his baseline attorney fees of \$1,551,605" without any apparent deduction].) Plaintiff also declares that Mr. Nguyen and Mr. Lim's hourly rates "have been court-approved at \$600 and \$375 per hour, respectively." (Reply, p. 6:8-9; Nguyen Decl., ¶ 8, Lim Decl., ¶ 3.)

In early 2013, this Court approved an hourly rate for defense counsel of \$920/hour on a successful anti-SLAPP motion. At that time, this Court stated in its decision, "There are many who would argue that an hourly billing rate approaching \$1000 per hour is per se outrageous; this court would be hard-pressed to logically argue against that proposition. On the other hand, reality sometimes has a way of trumping common-sense. Whether outrageous or not, in the Los Angeles legal community, attorney billing rates of \$1000 per hour and above are no longer unheard of." What was true about an extremely high - albeit "reasonable" - attorney's fees rate of \$920/hour in 2013 holds true today.

Just one year later, in Chodos v. Borman (2014) 227 Cal.App.4th 76 the Court of Appeal upheld a jury's finding that \$1,000/hour was, in the circumstances of that case, a reasonable hourly rate.

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NATURE OF PROCEEDINGS:

The Court has seen Mr. Shegerian's ability throughout this trial. He is considered by his peers to be one of the finest plaintiff-side trial attorneys in the State, and this Court agrees with that conclusion. The Court finds that the hourly rates requested for plaintiff's counsel are reasonable.

i. Deductions based on limited success

Based on all of the alleged defects in plaintiff's billing records cited above, defendant asserts that plaintiff's recovery should be limited only to "judicially noticed" hours spent litigating this matter. (See Opposition, p. 7:13-8:13.) This would include only "the time Plaintiff's counsel spent in hearings or at trial before this Court" and would amount to a total of 102 hours or \$119,125 in fees. (See Ibid.) Defendant has failed to identify any meaningful defect in the billing records or show that there is any improper pattern of padding, block billing, or duplicative work. The Court rejects this argument as frivolous.

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NATURE OF PROCEEDINGS:

Separately, defendant argues that the lodestar figure must be reduced by an additional 67% to account for the fact that plaintiff was only partially successful in this action because she prevailed on only 2 of her original 9 causes of action. (See Opposition, p. 8:15-10:15.) Defendant notes that "prior to trial Plaintiff voluntarily dismissed her claims for intentional infliction of emotional distress, violation of the equal pay act, and her request for punitive damages." (Id. at p. 9:9-11.) Additionally, "[f]ollowing the hearing on Defendant's Motion for Summary Judgment, the court dismissed Plaintiff's claims for gender harassment, gender retaliation, age harassment, violation of Labor Code § 1102.5." (Id. at p. 9:12-14.) Because plaintiff was unsuccessful on a majority of her causes of action, the fees must be reduced to "reflect the overall level of success achieved." (See Id. at p. 9: 26-28.)

In reply, plaintiff argues that reducing the lodestar due to "limited success" is discouraged in FEHA actions. (See Reply, p. 7:11-18.) Courts have held that "[i]t is only when a plaintiff has achieved a limited success, or has failed with respect to distinct and unrelated claims, that a reduction from the lodestar is appropriate." (Hogar v. Cmty. Dev. Comm'n of the City of Escondido (2007) 157 Cal.App.4th 1358, 1369.) Plaintiff argues that

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Plaintiff Anthony Nguyen (X)
Counsel Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

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Counsel Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

NATURE OF PROCEEDINGS:

her successful and unsuccessful claims were inextricably intertwined with her constructive discharge theory such that apportionment is not necessary. Notably, "[e]mployment discrimination cases, by their very nature, involve several causes of action arising from the same set of facts." (Reply, p. 8:27-28 [Wysinger v. Automobile Club of Southern California (2007) 157 Cal.App.4th 413, 431].) The Court finds that it would be nearly impossible to separate out the time spent on plaintiff's gender and age claims. Both arose out of the same working conditions that the jury found to be intolerable and it was reasonable to proceed on the belief that defendants' behavior towards plaintiff could have been based on either or both her age and her gender. Plaintiff further explains that "the intertwined nature of employment cases is heightened because Pinter-Brown was constructively discharged. Stated otherwise, all the facts and claims pled in the Complaint are ultimately intertwined with the constructive discharge, and at least from Pinter-Brown's perspective, gave rise to her intolerable work conditions." (Reply, p. 8:5-8.)

While plaintiff may have prevailed on only two of her original causes of action, given that plaintiff received an award of over \$13,000,000, the Court finds it hard to believe that defendant is seriously claiming that plaintiff achieved only a

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NATURE OF PROCEEDINGS:

limited success. In fact, as indicated below,
plaintiff's degree of success warrants a multiplier.

Defendant accuses plaintiff's counsel of asking for unconscionably inflated fees, yet defense counsel falls victim to the opposite vice - of suggesting a lodestar that is unconscionably deflated. Defense counsel concludes that, even if they were to "concede that Plaintiff's counsel's proposed hourly rates are proper," (which defendant contests) "the total lodestar available is \$119,125." (Opposition, p. 8:13, 28.) Defense later argues that this lodestar should be reduced by 67% (for plaintiff's supposed limited success), so that the Court would award a final lodestar of \$39,311.25. (Opposition, p. 10:14-15.)

The Court notes that defense counsel - although suggesting a lodestar of under \$40,000, nowhere indicates the amount that defendant paid its attorneys on this matter. Defense counsel does not provide the court with any evidence of their hourly rates, or of the number of hours defense counsel incurred in defending this action.

It is not uncommon for courts to compare opposing counsel's fees to help determine whether

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NATURE OF PROCEEDINGS:

the moving party's fees are reasonable. That is because a "comparative analysis of each side's respective litigation costs may be a useful check on the reasonableness of any fee request." (Mountjoy v. Bank of America, N.A. (2016) 245 Cal.App.4th 266, 273, 281, quoting Donahue v. Donahue (2010) 182 Cal.App.4th 259, 272. See, also, Donahue v. Donahue (2010) 182 Cal.App.4th 259, 272; Deane Gardenhome Ass'n v. Denktas (1993) 13 Cal.App.4th 1394, 1399 (comparing losing party's total incurred fees with prevailing party's claim for fees); West Coast Dev. v. Reed (1992) 2 Cal.App.4th 693, 707; In re Tobacco Cases I (2013) 216 Cal.App.4th 570, 584 (court expressly recognized that an opponent's time and amounts charged were probative to the determination of whether the fee claimant's time is reasonable); Mountjoy v Bank of America, NA (2016) 245 Cal.App.4th 266, 273 (comparison of the parties' respective fees at the end of the case was probative to the ultimate question of reasonableness); accord, Democratic Party of Washington v. Reed (9th Cir. 2004) 388 F.3d 1281, 1287 (prevailing parties' hours were not excessive because number of hours claimed of the same "magnitude" as their opponent's hours); Cairns v Franklin Mint Co. (9th Cir. 2002) 292 F.3d 1139 (declining to reduce defendant's lodestar fee calculations, in part, because opponent had incurred even greater fees). Had defense counsel felt that this comparison would have been useful to buttress their argument, the Court would have expected

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ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

counsel to have provided such evidence.

Taking into consideration the above analysis, the Court awards a lodestar of \$1,036,658.75, as indicated in the spreadsheet below:

SEE CHART NO. 1

Multiplier

"The award of a multiplier is in the end a discretionary matter largely left to the trial court." (Hogar v. Community Development Com'n of City of Escondido (2007) 157 Cal.App.4th 1358, 1371. See also Rey v. Madera Unif. Sch. Dist. (2012) 203 Cal.App.4th 1223, 1242.) A court may enhance the lodestar figure in appropriate cases. (Ketchum v. Moses (2001) 24 Cal.4th 1122, 1138.) The court in Ketchum provided an explanation of the rationale behind contingent fee enhancements: "'A contingent fee must be higher than a fee for the same legal services paid as they are performed. The contingent fee compensates the lawyer not only for the legal services he renders but for the loan of those services. The implicit interest rate on such a loan is higher because the risk of default (the loss of the case, which cancels the debt of the client to the lawyer) is much higher than that of conventional

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DATE: 08/03/18

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NATURE OF PROCEEDINGS:

loans.'" (Id. at pp. 1132-1133 [quoting Posner, Economic Analysis of Law (4th ed. 1992) pp. 534, 567].) "A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases." (Id. at p. 1133 [internal citations and quotations omitted].) The following factors may be considered in deciding whether to apply a multiplier: "(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award." (Id. at p. 1032.)

"[D]espite th[e Supreme Court's] emphasis on the need to apply the lodestar method in order to reach a rational and objective determination of a reasonable attorney fee, the court has never required that trial courts engage in any explicit analysis on the record. [Citation.] Indeed, in Ketchum v. Moses, supra, 24 Cal.4th 1122, the court held that the trial court was 'not required to issue a statement of decision with regard to the fee award.' (Id. at p. 1140.)" (SOURCE v. County of San Bernardino (2015) 235 Cal.App.4th 1179, 1189.)

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NATURE OF PROCEEDINGS:

Nonetheless, the Court will outline below its reasons for awarding a multiplier.

Plaintiff requests a 1.75 lodestar multiplier as compensation for the contingent risk of this case and on the grounds that this case presented difficult questions, precluded her counsel from taking on other work, and that her counsel displayed extraordinary skill in obtaining the verdict. (See Motion, p. 12:20-15:3.) She explains that her counsel took this case on an entirely contingent basis and that "[h]ere, the contingent-risk factor is catastrophic in terms of both time and money. Pinter-Brown's attorneys spent more than 1,550 hours and advanced hard costs in presenting a case that faced substantial (and potentially insurmountable) obstacles." (Id. at p. 13: 19-21.) Even after the verdict, "there remains no resolution in sight after more than two years of litigation, and zero dollars recovered to date." (Id. at p. 13: 27-28.)

Plaintiff also argues that a multiplier is warranted based on the "quality factor" because "[s]ecuring such a sizable jury verdict is impressive to say the least and is even more

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NATURE OF PROCEEDINGS:

extraordinary when considering the social context underlying the case." (See Id. at p. 9:9-24.) Not only did plaintiff's counsel secure an excellent result for this individual plaintiff, it appears that their efforts have resulted in meaningful change at UCLA. Plaintiff argues that:

"UCLA has made substantial changes in the wake of the jury's February verdict, such as clearly identifying UCLA's Title IX Officer, the reporting process, and the rights of employees and students under Title IX. Further, as noted by this Court, 'less than a month after the Pinter-Brown verdict, a UCLA student who had alleged sexual harassment stated how she felt vindicated when a Title IX investigation determined that she indeed had been harassed as a graduate student at UCLA 10 years earlier,' and the harasser was subsequently dismissed from UCLA." (Motion at p. 2:4-11.)

The Court finds that plaintiff's counsel displayed remarkable skill in obtaining a substantial recovery for plaintiff and in effecting meaningful change. This, of course, is the purpose of FEHA. (See, e.g., Govt. Code § 12920 [The Legislature's intent in enacting FEHA is to "provide effective remedies that will eliminate . . . discriminatory practices."]; Lopez v. Routt (2017) 17 Cal.App.5th 1006, 1010 [

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"The [U.S. Supreme Court] recognized that Congress had chosen Title VII plaintiffs as instruments to vindicate federal policy against job discrimination, and further recognized that when a trial court awards attorney fees to a prevailing plaintiff, 'it is awarding them against a violator of federal law.' (Christiansburg [Garment Co. v. E. E. O. C. (1978)] 434 U.S. [412], 418.)"

Plaintiff's counsel also declares that this case has required the firm to turn away other work, "resulting in the preclusion of work in at least three other cases." (Reply, p. 14:3-7; Shegerian Decl., ¶ 21.)

Defendant argues that the hourly rates sought by plaintiff's counsel "already incorporate compensation" to account for the risk associated with the contingency agreement and notes that "plaintiff's counsel does not claim or offer proof that the proposed hourly rates have ever been charged to clients in hourly-fee cases." (Opposition, p. 13:1-3.) This Court disagrees.

"[A] contingent fee in a case with a 50 percent chance of success should be twice the amount of a

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NATURE OF PROCEEDINGS:

non-contingent fee for the same case . . ." (Cezares
v. Saenz (1989) 208 Cal.App.3d 279, 288.)

It is this Court's experience that, in FEHA cases, plaintiffs prevail approximately half the time. Although there is no California case on-point, other courts have similarly concluded that, at least in labor and employment cases, it is reasonable to assume that plaintiffs' counsel will win approximately half the time. (See, e.g., Fujiwara v. Sushi Yasuda, Ltd. (S.D.N.Y. 2014) 58 F. Supp. 3d 424, 329.) If the Court were to accept Defendant's argument that plaintiff's lead counsel should be awarded a lodestar based upon an hourly rate of \$750/hour, this would mean that Mr. Shegerian's non-contingent rate would be \$375/hour. This is barely above the rate charge for a first-year association at a major law firm. Clearly, Mr. Shegerian's experience and expertise command a substantially higher hourly rate.

Further, Defendant fails to present any evidence of its implicit assertion that plaintiff's counsel's contingent-fee rates are higher than what they charge in hourly-fee cases. Further, the Court notes that if a plaintiff's attorney exclusively takes contingent-fee cases, there would be no way for that

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NATURE OF PROCEEDINGS:

attorney to show rates "charged to clients in hourly-fee cases." Clearly, that would not preclude a successful plaintiff's attorney in a FEHA case from being awarded attorney's fees.

Defendant asserts that plaintiff's counsel was not precluded from taking on other work because it "has filed 212 cases while this case was pending." (Opposition, p. 12: 15-17; McGuigan Decl., ¶ 4, Exh. F.)

The Court agrees with defendant that this third Ketchum factor - "the extent to which the nature of the litigation precluded other employment by the attorneys" - is not present here. The Court will not consider this factor in determining a multiplier.

However, Defendant cites no authority - and it is not the law - that a multiplier is warranted only when a case precludes counsel from doing any other work. The Court finds that the other three Ketchum factors - "(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, . . . [and] (4) the contingent nature of the fee award" - all warrant a multiplier in this case. (See Ketchum, supra, at p. 1032.)

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NATURE OF PROCEEDINGS:

The Court is also aware that this case was filed two years ago, and that while defense counsel's invoices have (presumably) been paid by its client on a monthly basis, plaintiff's counsel has not only fronted all costs to-date, but has not yet received any remuneration whatsoever on this case. Had plaintiff's counsel been paid monthly, those payments could have been invested. In June 2016 - when this case was filed - the Dow Jones Industrial average was approximately 17,800. As of the writing of this tentative decision, the Dow Jones Average is about 25,500. (See, e.g., <https://www.macrotrends.net/1358/dow-jones-industrial-average-last-10-years>.) This is an increase of approximately 43%. This in itself might warrant a 1.1 multiplier. (The reason it would not warrant a 1.43 multiplier is that all of the attorney's fees would not have accrued at the beginning of the case, but would rather have been spread out over the past two years. In fact, a majority of the attorney's fees were incurred in the last year and when preparing for trial. Hence a multiplier of approximately 1.1 would be appropriate simply to account for delay in payment.)

However, this Court need not - and perhaps should not - be so mathematical in its application of a

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NATURE OF PROCEEDINGS:

multiplier. Having considered all of the Ketchum factors, the Court agrees with plaintiff that a multiplier of 1.75 is the minimum that would be appropriate in this case.

Conclusion

The motion is GRANTED. Plaintiff is awarded attorney fees in the amount of 1,814,152.81, as indicated in the spreadsheet below:

SEE CHART NO. 2

MOTION TO TAX COSTS

Moving Party: Defendant The Regents of the University of California

Resp. Party: Plaintiff Dr. Lauren Pinter-Brown

The motion is GRANTED in part. The Court taxes a total of \$23,339.56 from plaintiff's Memorandum of Costs. The Court awards plaintiff her costs in the amount of \$58,399.78.

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NATURE OF PROCEEDINGS:

PRELIMINARY COMMENTS:

The Court has noted various arithmetical errors in Plaintiff's Memorandum of Costs and pleadings. Plaintiff lists the total costs as \$81,736.34. (See Memorandum of Costs, p. 1.) However, the costs listed actually total \$81,739.34, a difference of \$3.00. This was not pointed out by defendant; since defense counsel have always conducted themselves in a professional manner as officers of the Court (see, e.g., Rules Prof. Conduct, rules 5-220, 5-200 (A), (B)) the Court will simply assume that neither party caught this error.

Since it is not worth arguing over the \$3.00 that plaintiff is shorting herself; the Court will use the lower figure supplied by plaintiff.

The Court also notes that plaintiff's Memorandum of Costs requests \$31,353.55 for witness fees. (Memorandum of Costs, ¶ 8.) However, the Worksheet accompanying the Memorandum of Costs lists the total witness fees as \$30,678.55. This discrepancy is not mentioned by either party in either their opposition or reply. The Court will use

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UNIVERSITY OF CALIFORNIA AT LOS
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NATURE OF PROCEEDINGS:

the lower, documented amount, as indicated in the discussion of witness fees, below.

Lastly, the Court notes that plaintiff has miscalculated the amounts requested under "other" expenses. Her Memorandum of Costs requests \$10,848.23 in "other" expenses; yet in her opposition, she states that she is withdrawing \$321.89 of this amount, and therefore "should recover such costs in the amount of \$10,848.23." (Memorandum of Costs, ¶ 13; Opposition, p. 10:16.) Further, the amounts listed in her MPA under "other" - \$8,776.00 for Trial Equipment and \$1,785.47 for Parking and Travel - total \$10,561.47, not the \$10,848.23 listed. Once again, neither party has brought this discrepancy to the Court's attention.

ANALYSIS:

On 04/17/18, plaintiff filed a verified memorandum of costs seeking to recover a total of \$81,736.34 in expenses incurred in connection with this action. (See "Preliminary Comments," above.) On 04/23/18, defendant timely filed its motion to tax

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NATURE OF PROCEEDINGS:

costs.

A.Relevant Law

"Except as otherwise expressly provided by statute, a prevailing party is entitled as a matter of right to recover costs in any action or proceeding." (Code Civ. Proc., § 1032(b).)

After judgment is entered, the prevailing party "who claims costs must serve and file a memorandum of costs within 15 days after the date of service of the notice of entry of judgment or dismissal, or within 180 days after entry of judgment, whichever is first." (Cal. Rules of Court, rule 3.1700(a).) "The memorandum of costs must be verified by a statement of the party, attorney, or agent that to the best of his or her knowledge the items of cost are correct and were necessarily incurred in this case." (Ibid.)

In turn, the losing party may file a motion to strike or tax costs. (Cal. Rules of Court, rule 3.1700(b).) Procedurally, "[a]ny notice of motion to strike or to tax costs must be served and filed 15 days after service of the cost memorandum." (Ibid.)

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NATURE OF PROCEEDINGS:

Even where parties are unsuccessful as to certain matters, prevailing parties as defined by statute (Code of Civil Procedure §1032) are entitled to recover all costs reasonably incurred, and proof that parties were unsuccessful on particular items is not tantamount to a demonstration that such costs were unreasonably incurred. (Michell v. Olick (1996) 49 Cal.App.4th 1194, 1200.)

During the hearing, "the verified memorandum of costs is prima facie evidence of their propriety, and the burden is on the party seeking to tax costs to show they were not reasonable or necessary." (Nelson v. Anderson (1999) 72 Cal.App.4th 111, 131.) "This procedure provides an orderly and efficient way of placing disputed costs at issue on a line item basis." (612 South LLC v. Laconic Ltd. Partnership (2010) 184 Cal.App.4th 1270, 1285.)

"[T]he mere filing of a motion to tax costs may be a "proper objection" to an item, the necessity of which appears doubtful, or which does not appear to be proper on its face. [Citation.] However, "[i]f the items appear to be proper charges the verified memorandum is prima facie evidence that the costs, expenses and services therein listed were

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NATURE OF PROCEEDINGS:

necessarily incurred by the defendant [citations], and the burden of showing that an item is not properly chargeable or is unreasonable is upon the [objecting party]." [Citations.]

"The court's first determination, therefore, is whether the statute expressly allows the particular item, and whether it appears proper on its face. [Citation.] If so, the burden is on the objecting party to show them to be unnecessary or unreasonable. [Citation.]" (Nelson, 72 Cal.App.4th at p. 131.)

A. Discussion

Defendant argues that the Memorandum should be stricken in its entirety because "[p]laintiff did not provide any documentation, invoices or otherwise, to justify these costs, preventing the Court or The Regents from determining the reasonableness of any costs Plaintiff claims." (Motion, p. 1:5-9.) The Court rejects this claim: "the verified memorandum of costs is prima facie evidence of their propriety, and the burden is on the party seeking to tax costs to show they were not reasonable or necessary." (Nelson v. Anderson (1999))

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NATURE OF PROCEEDINGS:

72 Cal.App.4th 111, 131.) No additional documentation is necessary; it is defendant's burden to present evidence that the costs were unnecessary or unreasonable.

Separately, defendant moves to strike the following items from the Memorandum:

". . . the total amount of \$68,575.55 which includes \$380.00 in filing and motion fees, \$4,304.05 in unnecessary deposition costs; \$1,124.45 in service of process fees for witnesses not called or relied upon at trial, \$31,678.55 in witness fees, \$15,497.27 for unsubstantiated models, blowups, and photocopies of exhibits, \$4,743.00 in unrecoverable court reporter fees, and \$10,848.23 in vague 'other' expenses." (Motion, p. 1: 11-16.)

In Opposition, plaintiff withdraws her request for a total of \$353.27, including "(1) witness fees - \$21.05, (2) models, blowups, and photocopies of exhibits - \$10.33, [and] (3) other - \$321.89." (Opposition, p. 1:3-7.) She argues that all of the other requested costs are recoverable and requests that the Court award her costs in the amount of \$80,711.57. (See Id. at p. 1:8-13.)

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NATURE OF PROCEEDINGS:

i. Filing and Motion Fees

Plaintiff seeks \$755.00 in "filing and motion fees." (Memorandum, ¶ 1.) Defendant argues that "the only cognizable fees is the filing fee for \$435.00." (Motion, p. 3:12-13.) The "vague descriptions" include "three non-descript [sic] ex parte applications but provides the date for only one entry." (Id. at p. 3: 16-18.)

In opposition, plaintiff argues that all of the filing and motion fees were necessary, reasonable, and recoverable:

"Plaintiff reserved three motion hearing dates in this litigation - two motions to compel further discovery responses and one motion for attorney fees. While the motions to compel further discovery responses ultimately were not heard by this Court and Plaintiff eventually obtained the requested relief via further meet and confer efforts Plaintiff nonetheless needed to pay the filing fees and reserve these motion dates to ensure compliance with her discovery requests." (Opposition, p. 4:10-15; Nguyen Decl., ¶¶ 2-3, Exh. 1 [containing payment

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UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

receipts and CRS receipts].)

Additionally, "plaintiff's two ex parte applications are similarly recoverable as Plaintiff's counsel applied to extend the page length of her opposition to Defendant's motion for summary judgment . . . [and the] second ex parte application . . . was likewise reasonably necessary as Plaintiff Pinter-Brown was hospitalized for a medical condition approximately one week before the scheduled trial date" necessitating a short continuance. (Opposition, p. 4:20-28; Nguyen Decl., ¶ 4.)

In reply, defendant argues that the fees connected with the three motion hearings and the two ex parte applications should be stricken. (See Reply, p. 2:3-17.)

According to defendant, the two motions to compel further discovery responses were unnecessary because "counsel admits that further meet and confer efforts were appropriate and necessary to resolve the motions." (Reply, p. 2:7-9.) The Court disagrees. Defendant was under an obligation to timely produce discovery responses. Plaintiff believed that the discovery responses were

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 08/03/18

DEPT. 34

HONORABLE MICHAEL P. LINFIELD

JUDGE

R. NAVARRO

DEPUTY CLERK

HONORABLE
#7

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff
Counsel

Anthony Nguyen (X)
Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant
Counsel

Kathryn T. McGuigan (X)
Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

inadequate and eventually persuaded defendant that she was correct. Filing a motion to compel is often the impetus that is required to get an opposing party to engage in the meet and confer process in good faith. Plaintiff may recover the filing fees for both motions to compel.

Defendant presents no argument why the filing fees for plaintiff's attorney fees motion is not recoverable.

Defendant argues that the ex parte applications are not recoverable because "[p]laintiff tacitly concedes that a page-length extension was ultimately not required or appropriate" and because the ex parte to continue the trial was "due to Plaintiff's own health issue was not reasonably required, but rather, an expense to accommodate Plaintiff's personal needs." (Reply, p. 2: 12-16.) Defendant cites no authority for either claim. Any indication that the request for a page-length extension was unnecessary is only visible in hindsight. Plaintiff's counsel has declared that they believed the extension was necessary at the time. The standard is what a reasonable attorney would do at the time, not what ultimately turns out to be necessary. Similarly, defendant fails to explain how it is not reasonably

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Deputy Sheriff

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8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

necessary to make sure that plaintiff could attend the trial. It was not unreasonable to seek a continuance to ensure that she could attend.

Plaintiff may recover \$755.00 in filing and motion fees.

i. Deposition Costs

Defendant moves to strike \$4,304.05 in costs for the depositions of Robert DuWors, Patricia Ganz, Allister-Benjamin Chase, Alan Marcus Fogelman, Terra Hughes, Robert Elshoff, and Judith Currier on the ground that their testimony was not used at trial. (See Motion, p. 4: 9-17.) The fact that they were deposed but did not testify "suggests that their testimony was merely relevant but not necessary to the proceedings." (Id. at p. 4: 13-14.)

In opposition, plaintiff acknowledges that these witnesses' deposition testimony was not used at trial but explains that their testimony was "reasonably necessary to the conduct of the litigation" because their testimony was "heavily relied upon by Plaintiff in her opposition to

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BC624838

Plaintiff

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Counsel

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DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

Defendant's voluminous and difficult motion for summary judgment. A significant portion of emails and other exhibits relied upon at trial included reference to Drs. Fogelman, Ganz, and Currier, and it was necessary for Plaintiff's successful litigation of this case to depose these individuals." (Opposition, p 5:17-22.)

Plaintiff has submitted invoices documenting the expenses incurred in connection with deposing witnesses in this case. (See Nguyen Decl., Exh. 3.) She notes that these expenses include fees for preparation of deposition transcripts, which are recoverable in the Court's discretion because they are not specifically enumerated. (Opposition, p. 5: 23-25 [citing Hsu v. Semiconductor Systems, Inc. (2005) 126 Cal.App.4th 1330, 1342].) Additionally, she seeks to recover costs for expedited deposition transcripts of several witnesses and argues that she "had no choice but to expedite the transcripts, because her opposition to Defendant's motion for summary judgment was due on August 3, 2017." (Id. at p. 6: 12-16.)

In reply, defendant argues that the Court should disallow \$8,331.91 in deposition costs because plaintiff's documentary evidence shows that many of the charges are not recoverable. (See Reply,

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Pinter-Brown v. UCLA

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DATE: 08/03/18

DEPT. 34

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8:30 am

BC624838

Plaintiff
Counsel

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Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant
Counsel

Kathryn T. McGuigan (X)
Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

p. 3: 1-17.) Defendant argues that "[t]he remaining sums for expedited fees (\$1,475.82), optional electronic copies (\$376), delivery fees (\$250), and other improper expenses such as parking (\$194.50) are not recoverable." (Reply, p. 3: 19-21.) Additionally, "[d]efendant should not bear the costs for Plaintiff's failure to plan or take depositions late" by being compelled to pay for the expedited fees. (Id. at p. 3: 23-24.)

Defendant fails to cite any authority to support its conclusions that electronic copies, delivery fees, and parking are not encompassed within the allowable expenses for "taking, video recording, and transcribing necessary depositions including an original and one copy of those taken by the claimant . . . and travel expenses to attend depositions." Defendant also fails to show that plaintiff is at fault for conducting depositions so close to the deadline for opposing the motion for summary judgment.

Further, the Court gave each side 16 hours for their presentation of evidence. Plaintiff used 16.0 hours; defendant used 15.9 hours. These limitations were reasonable, and were consistent with the Court's order at the Case Management Conference that this would be a 7-10 day jury trial.

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

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BC624838

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Counsel

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UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

However, given these limitations, neither party could call all of the witnesses that they might have originally anticipated calling.

Plaintiff may recover \$14,888.09 in deposition costs.

i. Service of Process

Defendant moves to strike \$1,124.25 in service of process costs from the Memorandum on the ground that these costs related to service on witnesses who were not "deposed in the course of litigation or appeared at trial" and for serving witnesses who "were deposed but did not testify at trial and were, therefore, not necessary to the litigation." (Motion, p. 4: 22-28.)

In opposition, plaintiff acknowledges that it served several individuals who were not deposed and who did not testify at trial. "Plaintiff made a strategic call at trial to not call these witnesses at trial. Still, Plaintiff had a duty to ensure that it served subpoenas on all of the witnesses who would offer probative evidence at trial. Plaintiff

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8:30 am

BC624838

Plaintiff
Counsel

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Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

should not have to bear costs that were reasonably necessary to conduct of the litigation." (Opposition, p. 6:27-7:3.) Additionally, plaintiff incurred actual expenses to serve some individuals twice because the first attempt was unsuccessful.

Once again, defendant's argument is based entirely on hindsight. Plaintiff chose not to call certain witnesses and so it appears that those witnesses must have been unnecessary. That is not the standard. Plaintiff persuasively argues that, at the time these individuals were served, her counsel reasonably believed that their testimony would be necessary. Counsel made a strategic decision not to call these witnesses. Given the resulting verdict, it appears that counsel's strategy worked.

As the Court indicated above, the Court gave each side 16 hours for their presentation of evidence. Given these restrictions, it is not surprising that subpoenas might have been served on potential witnesses who were never called to testify at trial. This is no different than most trials; for instance, today's newspapers report that the prosecution in the Paul Manafort trial has "said they might call three dozen witnesses." (See New York Times, 7/31/18, "Manafort Trial Gets Off to Quick Start, available at

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BC624838

Plaintiff

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Defendant

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UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

<https://www.nytimes.com/2018/07/31/us/politics/paul-manafort-trial.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region®ion=top-news&WT.nav=top-news>)

It is unlikely that all of these witnesses will be called by the prosecution in the estimated three-week trial.

The Court declines to strike any amount incurred for service.

i. Witness Fees

Defendant moves to strike \$61.05 in ordinary witness fees paid to Ben Chase on the ground that he never testified at trial. (Motion, p. 5: 10-12.)

Plaintiff withdraws \$21.05 in expenses related to Mr. Chase's deposition "which includes \$10.00 for parking expense reimbursement and \$0.535/mile rather than the statutorily allowable \$0.20/mile" in travel expenses. (See Opposition, p. 7: 14-17.) Nevertheless, he actually appeared at

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V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

trial and would have been called but Plaintiff had a limited amount of time to present her case and made a strategic call to expend more trial time examining other witnesses." (Id. at p. 7: 21-23.) As defendant's motion concedes, witness fees are available for "each day's actual attendance at trial," not just for testifying at trial. (Motion, p. 5:8-9.)

Defendant also moves to strike expert witness fees on the ground that the Court has not ordered that the fees would be recoverable and plaintiff has not presented any evidence to show that the costs were reasonable or necessary. (Motion, p. 5: 13-22.)

Although the Court did not explicitly order that expert witness fees would be recoverable, they are provided for by statute. Government Code section 12965 provides that "[i]n actions brought under this section, the court, in its discretion, may award to the prevailing party reasonable attorney's fees and costs, including expert witness fees." (Gov. Code § 12965(b).) Additionally, Courts "have relied upon federal cases interpreting Title VII in determining the standards governing FEHA fee recoveries. . . . Under Title VII a prevailing plaintiff is entitled to expert witness fees." (Opposition, p. 8: 9-14.)

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ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

Here, plaintiff argues that she incurred expert witness fees in the amount of \$30,678.55 for the retention of experts "who were necessary to assess plaintiff's emotional distress" and damages and to depose defendant's expert witness. (See Opposition, p. 8:15-20.)

In reply, defendant challenges plaintiff's documentation on the ground that the invoices do not reflect the fact that plaintiff actually paid all of the expenses. (See Reply, p. 6:10-28.) Defendant cites no authority for the claim that a cost must have been actually paid in order to be recoverable. The documentary evidence establishes that plaintiff has actually incurred an obligation to pay the requested amounts to each expert witness. That is sufficient.

As indicated above in its "Preliminary Comments," Plaintiff's Summary to its Memorandum of Costs lists witness fees as \$31,353.55, while the worksheet only itemizes \$30,678.55 in costs. The Court will use the lower amount.

The Court awards expert witness fees to

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ELECTRONIC RECORDING MONITOR

V. GALINDO

Deputy Sheriff

Rosie Samples, CSR# 12383 Reporter

8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

plaintiff in the amount of \$30,678.55, plus ordinary witness fees in the amount of \$40.00 for a total of \$30,718.55.

i. Models, Blowups and Photocopies of Exhibits

Section 1033.5(a)(13) provides that "[m]odels and blowups of exhibits and photocopies of exhibits may be allowed if they were reasonably helpful to aid the trier of fact." Because this section only allows costs that were helpful to aid the trier of fact, "[i]t follows that fees are not authorized for exhibits not used at trial." (Ladas v. California State Auto Assoc. (1993) 19 Cal.App.4th 761, 775 [such costs not allowable because the case was dismissed before trial].)

Defendant moves to strike \$15,497.27 in fees allegedly incurred for models, blowups, and photocopies of exhibits on the ground that "plaintiff provides no further description of 'copies' that would in any way justify the claimed exorbitant cost." (Motion, p. 6: 4-7.)

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EXHIBIT F

Pinter-Brown v. UCLA

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8:30 am

BC624838

Plaintiff
Counsel

Anthony Nguyen (X)
Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

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Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

The Court finds that the copying charge per page that plaintiff is requesting - 1.5¢/page - is eminently reasonable.

Plaintiff withdraws \$10.33 from her claimed costs but maintains that the vast majority of the costs are recoverable. (See Opposition, p. 9: 9-10.) Plaintiff cites the following expenses:

"Shegerian & Associates incurred \$12,836.25 in: (1) printing/copying five sets of Plaintiff's trial exhibits . . . (2) printing/copying three sets of Defendant's trial exhibits . . . (3) printing/copying six sets of deposition transcripts . . . (40 binders . . . and (5) exhibit tabs."

(Opposition, p. 9:24-10:3.) At the Final Status Conference, the Court required counsel to prepare five full sets of their trial exhibits - the original for the Judicial Assistant, plus one copy each for the Court, for the witness, for counsel and for opposing counsel. These are reimbursable. Plaintiff lists \$6,849.90 for copying six sets of these exhibits, at \$0.015/page. The Court will award 5/6 of this amount, or \$5,708.25, and taxes the remaining amount.

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8:30 am

BC624838

Plaintiff

Anthony Nguyen (X)

Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

Defendant

Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

The remaining expenses appear to have been for counsel's benefit and use during the trial. There is no evidence that these costs relate to exhibits that were "reasonably helpful to aid the trier of fact." (Code of Civil Procedure § 1033.5(a)(13).)

Accordingly, the Court taxes \$7,128.00 from plaintiff's Memorandum of Costs, plus the \$10.33 withdrawn by plaintiff.

i. Court Reporter Fees

A prevailing party may recover "court reporter fees as established by statute." (Code Civ. Proc., § 1033.5(a)(11).)

Defendant moves to strike \$4,743.00 in Court Reporter fees on the ground that they are not ordered by the Court and are not allowable under section 1033.5(b). (See Motion, p. 6:20-28.) In opposition, plaintiff maintains that "Court reporter fees are expressly allowed by section 1033.5." (Opposition, p. 10:10.) Plaintiff is incorrect.

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8:30 am

BC624838

Plaintiff
Counsel

Anthony Nguyen (X)
Mark Lim (X)

DR LAUREN PINTER-BROWN

VS

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Counsel

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Barbara A. Fitzgerald (X)

UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

Section 1033.5(a)(11) allows for recovery of court reporter fees if they are "established by statute." (Code Civ. Proc. § 1033.5(a)(11).) Plaintiff fails to cite any statute that allows for the recovery of court reporter fees.

Accordingly, the Court strikes \$4,743.00 from plaintiff's Memorandum of Costs.

i.Other

Plaintiff seeks to recover \$10,848.23 for "other" expenses including "trial equipment, medical records, attorney reimb." (Memorandum, ¶ 13, p. 3.) Defendant moves to strike these costs on the ground that "plaintiff fails to itemize each category of alleged costs." (See Motion, p. 7: 2-12.)

Plaintiff withdraws \$321.89 from her request and argues that she should receive \$10,848.23 in "other" costs. (See Opposition, p. 10: 15-16.)

First, plaintiff explains that she incurred \$8,776.00 in expenses for trial equipment.

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BC624838

Plaintiff
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UNIVERSITY OF CALIFORNIA AT LOS
ANGELES ET AL

NATURE OF PROCEEDINGS:

(Opposition, p. 10: 18-25.) She submits invoices totaling \$8,776.00 which reflects "equipment rental fees to assist in the electronic presentation of evidence at trial." (Nguyen Decl., ¶ 18, Exh. 9.)

Defendant objects to these expenses on the ground that the trial support services were provided by Trial Electronics Direct, "a fictitious business name which uses the same Post Office box number as Plaintiff's counsel's firm and registered as a fictitious business name by Plaintiff's counsel as the registrant. By way of these costs, Mr. Shegerian is charging his firm to rent equipment that, in all likelihood, his firm already owns. This cost is disingenuous and expressly disallowed by case law."

The Fictitious Business Name Statement is signed by Mr. Shegerian on behalf of the owner, Secretariat Enterprises, LLC. (See McGuigan Decl, Exh. B.) Even if Mr. Shegerian is the sole owner of Secretariat Enterprises LLC, that LLC is a separate business entity from the law firm, which is a registered corporation under the name Shegerian & Associates, Inc. (See Id. at Exh. A.)

Although these corporations may be distinct legal entities, the issue raised by defense is

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BC624838

Plaintiff

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Counsel

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DR LAUREN PINTER-BROWN

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Kathryn T. McGuigan (X)

UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

troubling to this Court. Anytime there are closely-held interlocking corporations, the possibility of self-dealing is always present. There is no way for this Court to know whether the amounts billed represent fair-market value for the services rendered. Having no evidence of the reasonableness of these costs, the Court exercises its discretion to tax the \$8,776.00 in rentals for trial equipment.

Next, plaintiff claims that she incurred \$1,785.47 in parking and travel expenses related to depositions, which are specifically allowable under section 1033.5(a)(3). (Opposition, p. 10:27-28.) Plaintiff acknowledges that attorney parking at trial and hearings are discretionary but requests that the Court award these expenses. (See Id. at p. 11.) Plaintiff has submitted invoices documenting these expenses. (See Nguyen Decl., Exh. 10.)

While the Court would normally allow for travel expenses related to depositions, the Court normally does not allow for reimbursement for parking at trial and court hearings. Plaintiff's Exhibit 10 does not readily allow the Court to determine how much money was incurred for parking and/or travel related to trial and court hearings.

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BC624838

Plaintiff

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Counsel

Mark Lim (X)

DR LAUREN PINTER-BROWN

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UNIVERSITY OF CALIFORNIA AT LOS ANGELES ET AL

Counsel

Barbara A. Fitzgerald (X)

NATURE OF PROCEEDINGS:

Defendant objects to all but \$25 of the parking expenses. (Reply, p. 10:12.) The Court will therefore tax all but \$25.00 of these expenses.

(As indicated above in the "Preliminary Comments," Plaintiff has miscalculated the amounts under her "other" expenses. (See Memorandum of Costs, Summary and Worksheet, ¶¶ 13.) Using the figure listed on the summary, the Court taxes \$10,823.23, and awards \$25.00.

i. Conclusion

The motion is GRANTED in part as indicated in the spreadsheet below. The Court taxes a total of \$23,339.56 from plaintiff's Memorandum of Costs. The Court awards plaintiff her costs in the amount of \$58,399.78.

****SEE CHART NO. 3****

Defendant is to give notice.

CHART NO. 1- BC624838- DR LAUREN PINTER-BROWN VS UNIVERSITY OF CALIFORNIA AT LOS ANGELES

ATTORNEYS FEES

Attorney's Name	Rate Requested	Hours Requested	Total Requested	Rate Granted	Hours Granted	Total Granted
Carney Shegerian	\$1,100.00	381.70	\$419,870.00	\$1,100.00	381.70	\$419,870.00
Anthony Nguyen	\$675.00	395.60	\$267,030.00	\$675.00	395.60	\$267,030.00
Taylor Prainito	\$500.00	398.90	\$199,450.00	\$500.00	398.90	\$199,450.00
Mark Lim	\$400.00	327.30	\$130,920.00	\$400.00	327.30	\$130,920.00
Gloria Tumanyan	\$350.00	4.25	\$1,487.50	\$350.00	4.25	\$1,487.50
Kristina Unanyan	\$350.00	7.30	\$2,555.00	\$350.00	7.30	\$2,555.00
Monique Eginli	\$325.00	17.25	\$5,606.25	\$325.00	17.25	\$5,606.25
Cecilia Son	\$325.00	20.00	\$6,500.00	\$325.00	20.00	\$6,500.00
Taylor French	\$300.00	10.80	\$3,240.00	\$300.00	10.80	\$3,240.00
		Total Requested	\$1,036,658.75			Total Fees Granted \$1,036,658.75

BC624838

ATTORNEYS FEES

Attorney's Name	Rate Requested	Hours Requested	Total Requested	Rate Granted	Hours Granted	Total Granted
Carney Shegerian	\$1,100.00	381.70	\$419,870.00	\$1,100.00	381.70	\$419,870.00
Anthony Nguyen	\$675.00	395.60	\$267,030.00	\$675.00	395.60	\$267,030.00
Taylor Prainito	\$500.00	398.90	\$199,450.00	\$500.00	398.90	\$199,450.00
Mark Lim	\$400.00	327.30	\$130,920.00	\$400.00	327.30	\$130,920.00
Gloria Tumanyan	\$350.00	4.25	\$1,487.50	\$350.00	4.25	\$1,487.50
Kristina Unanyan	\$350.00	7.30	\$2,555.00	\$350.00	7.30	\$2,555.00
Monique Eginli	\$325.00	17.25	\$5,606.25	\$325.00	17.25	\$5,606.25
Cecilia Son	\$325.00	20.00	\$6,500.00	\$325.00	20.00	\$6,500.00
Taylor French	\$300.00	10.80	\$3,240.00	\$300.00	10.80	\$3,240.00
		Total Requested	\$1,036,658.75			Total Fees Granted
						\$1,036,658.75
				Multiplier	1.75	\$1,814,152.81

CHART NO. 3- BC624838- DR LAUREN PINTER-BROWN VS UNIVERSITY OF CALIFORNIA AT LOS ANGELES

Motion to Tax Costs

Item No.	Item	Amount Requested	Amount Taxed	Amount Granted
1	Filing and motion fees	\$755.00	\$0.00	\$755.00
2	Jury fees	\$1,748.20	\$0.00	\$1,748.20
3	Jury food and lodging	\$0.00	\$0.00	\$0.00
4	Deposition costs	\$14,888.09	\$0.00	\$14,888.09
5	Service of process	\$1,906.00	\$0.00	\$1,906.00
6	Attachment expenses	\$0.00	\$0.00	\$0.00
7	Surety bond premiums	\$0.00	\$0.00	\$0.00
8	Witness fees	\$31,353.55	\$635.00	\$30,718.55
9	Court-ordered transcripts	\$0.00	\$0.00	\$0.00
10	Attorneys fees	\$0.00	\$0.00	\$0.00
11	Models, blowups, photocopies	\$15,497.27	\$7,138.33	\$8,358.94
12	Court reporter fees	\$4,743.00	\$4,743.00	\$0.00
13	Other	\$10,848.23	\$10,823.23	\$25.00
	TOTAL	\$81,739.34	\$23,339.56	\$58,399.78

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509 S. Beverly Drive
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Telephone Number: (310) 551-0949
Facsimile Number: (855) 299-4444

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ANguyen@Shegerianlaw.com
William Reed, Esq., State Bar No. 261931
WReed@Shegerianlaw.com
SHEGERIAN & ASSOCIATES, INC.
225 Santa Monica Boulevard, Suite 700
Santa Monica, California 90401
Telephone Number: (310) 860-0770
Facsimile Number: (310) 860-0771

Attorneys for Plaintiff,
LILI HADSELL

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

LILI HADSELL,

Plaintiff,

vs.

CITY OF BALDWIN PARK,

Defendant.

) Case No.: BC 548 602

) **The Honorable Michael L. Stern**

) **NOTICE OF RULING ON PLAINTIFF**
) **LILI HADSELL'S MOTION FOR**
) **ATTORNEYS' FEES**

) Dept.: 62
) Action Filed: June 13, 2014

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on June 25, 2019, Plaintiff Lili Hadsell's Motion for an
3 Award of Attorneys' Fees came on regularly before the Honorable Michael L. Stern in
4 Department 62 of the Los Angeles Superior Court, Central District, located at 111 North
5 Hill Street, Los Angeles, California 90012. Gary A. Dordick, Esq. and Anthony Nguyen,
6 Esq., appeared for Plaintiff, Lili Hadsell. Joshua Kuns, Esq. appeared for Defendant, City
7 of Baldwin Park.

8 Upon oral argument and consideration of the papers, the Court ruled as follows:
9 Attorneys' Fees in the amount of \$1,676,420.00, plus a multiplier of 1.5, for a total of
10 \$2,514,630.00 shall be awarded to Plaintiff and against Defendant, based on counsel's
11 hourly rates for this case as follows:

12 The Court ruled as follows:

- 13 1. \$1,100.00 for Gary A. Dordick, Esq.;
- 14 2. \$1,100.00 for Carney R. Shegerian, Esq
- 15 3. \$800.00 for Anthony Nguyen, Esq.;
- 16 4. \$650.00 for William Reed, Esq.;
- 17 5. \$600.00 for Mahru Madjidi, Esq.;
- 18 6. \$550.00 for Vanessa Deniston, Esq.;
- 19 7. \$550.00 for Patrick Nichols, Esq.;
- 20 8. \$500.00 for Mark Lim, Esq.

21 Plaintiff to give notice.

22 Attached hereto as **Exhibit 1**, is a true and correct copy of the Court's June 25, 2019
23 Minute Order reflecting the above rulings. Attached hereto as **Exhibit 2**, is a true and
24 correct copy of the Court's June 25, 2019 *Nunc Pro Tunc* Order reflecting the total award,
25 including the 1.5 enhancement multiplier.

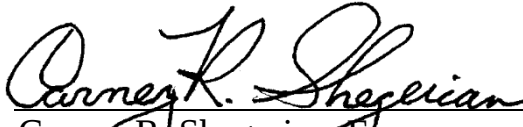
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1 Dated: June 26, 2019

SHEGERIAN & ASSOCIATES, INC.

2
3 By: 
4 Carney R. Shegerian, Esq.

5 Attorneys for Plaintiff,
6 LILI HADSELL
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EXHIBIT 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 62

BC548602

LILI HADSELL VS CITY OF BALDWIN PARK ET AL

June 25, 2019

8:30 AM

Judge: Honorable Michael L. Stern

Judicial Assistant: M. Alaniz

Courtroom Assistant: P. Figueroa

CSR: A. R. Desmond, #13037

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Gary Alan Dordick ; Anthony Nguyen

For Defendant(s): Joshua Alan Kuns

NATURE OF PROCEEDINGS: Plaintiff's Motion for Attorney Fees

Pursuant to Government Code sections 68086, 70044, and California Rules of Court, rule 2.956, Alicia Renee Desmond, CSR # 13037, certified shorthand reporter is appointed as an official Court reporter pro tempore in these proceedings, and is ordered to comply with the terms of the Court Reporter Agreement. The Order is signed and filed this date.

The matter is called for hearing and argued.

After conferring with counsel, the Court rules as follows:

The Motion for Attorney Fees filed by Lili Hadsell on 05/31/2019 is Granted. The Court grants the motion in the lodestar amount of \$1,676,420.00.

Counsel for plaintiff shall prepare amended judgment. Counsel shall meet and confer as to form and content by June 28, 2019. Lodge by noon on July 2, 2019 with courtesy copy to Department 62. Any objections are due by noon on July 2, 2019, with a courtesy copy delivered directly in this department.

EXHIBIT 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 62

BC548602

LILI HADSELL VS CITY OF BALDWIN PARK ET AL

June 25, 2019

1:57 PM

Judge: Honorable Michael L. Stern

Judicial Assistant: M. Alaniz

Courtroom Assistant: P. Figueroa

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Nunc Pro Tunc Order

It appearing to the Court that through inadvertence and/or clerical error, the minute order of 06/25/2019 in the above-entitled action does not properly reflect the Court's order. Said minute order is ordered corrected nunc pro tunc as of 06/25/2019, as follows:

By adding:

With a 1.5 enhancement multiplier for a total of \$2,514.630.00

Notice is not required.

2 **PROOF OF SERVICE**

3 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

4 I am an employee in the County of Los Angeles, State of California. I am over the
5 age of 18 and not a party to the within action; my business address is 225 Santa Monica
Boulevard, Suite 700, Santa Monica, California 90401.

6 On June 26, 2019, I served the foregoing document, described as **"NOTICE OF**
7 **RULING ON PLAINTIFF LILI HADSELL'S MOTION FOR ATTORNEYS'**
8 **FEES,"** on all interested parties in this action by placing a true copy thereof in a sealed
envelope, addressed as follows:

9 **Dana John McCune, Esq.**
10 **Joshua A. Kuns, Esq.**
11 **Steven Taylor, Esq.**
MCCUNE & HARBER, LLP
515 South Figueroa Street, Suite 1150
Los Angeles, California 90071

Robert N. Tafoya, Esq.
TAFOYA & GARCIA, LLP
516 West 2nd Street, Suite 1000
Los Angeles, California 90012

12 ☒ **(BY MAIL)** As follows:

13 ☒ I placed such envelope, with postage thereon prepaid, in the United States mail at
14 Santa Monica, California.

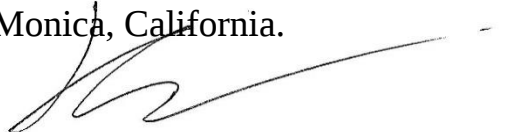
15 ☒ I am "readily familiar" with the firm's practice of collecting and processing corre-
16 spondence for mailing. Under that practice, it would be deposited with the U.S.
17 Postal Service on that same day, with postage thereon fully prepaid, at Santa Monica,
18 California, in the ordinary course of business. I am aware that, on motion of the party
served, service is presumed invalid if the postal cancellation or postage meter date is
more than one day after the date of deposit for mailing in this affidavit.

19 ☐ **(BY PERSONAL SERVICE)** I caused such envelope to be delivered by hand to
the attorney at the offices of the addressee.

20 ☐ **(BY FED EX)** I placed such envelope in a designated Federal Express pick-up box
at Santa Monica, California.

21 ☒ **(STATE)** I declare, under penalty of perjury under the laws of the State of
22 California, that the above is true and correct.

23 Executed on June 26, 2019, at Santa Monica, California.

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25 _____
Jose Castro

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 3435 Wilshire Blvd., Suite 2910, Los Angeles, CA 90010.

On the date set out below, I served the foregoing document described as **Petitioner's Notice of Motion and Motion for Award of Attorney's Fees and Costs** on the following interested parties via E-Mail:

JEFFREY BRIGGS
Briggs Law
3373 Country Home Court
First Floor
Thousand Oaks, CA 91362
jbriggs@jbriggslaw.com

Executed on March 1, 2020 at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.

/s/ Colleen Flynn

Colleen Flynn